

City Council Chambers 3300 Capitol Avenue Fremont, California

City Council

Bob Wasserman, Mayor Anu Natarajan, Vice Mayor Bob Wieckowski Bill Harrison Suzanne Lee Chan

City Staff

Fred Diaz, City Manager
Harvey E. Levine, City Attorney
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk
Harriet Commons, Finance Director
Marilyn Crane, Information Technology Svcs. Dir.
Daren Fields, Economic Dev. Director
Annabell Holland, Parks & Recreation Dir.
Norm Hughes, City Engineer
Jill Keimach, Community Dev. Director
Bruce Martin, Fire Chief
Jim Pierson, Transportation & Ops Director
Michael Rich, Human Resources Director
Jeff Schwob, Planning Director
Suzanne Shenfil, Human Services Director
Craig Steckler, Chief of Police
Elisa Tierney, Redevelopment Director

City Council Agenda and Report [Redevelopment Agency of Fremont]

General Order of Business

- 1. Preliminary
 - Call to Order
 - Salute to the Flag
 - Roll Call
- 2. Consent Calendar
- 3. Ceremonial Items
- 4. Public Communications
- 5. Scheduled Items
 - Public Hearings
 - Appeals
 - Reports from Commissions, Boards and Committees
- 6. Report from City Attorney
- 7. Other Business
- 8. Council Communications
- 9. Adjournment

Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

Agenda and Report • Fremont City Council Meeting • June 9, 2009



Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak. Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.

The City Council Agendas may be accessed by computer at the following Worldwide Web Address: www.fremont.gov

Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website (www.Fremont.gov).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk

City of Fremont

3300 Capitol Avenue, Bldg. A

Fremont, California 94538

Telephone: (510) 284-4060

Your interest in the conduct of your City's business is appreciated.

REVISED NOTICE AND AGENDA OF SPECIAL MEETING CLOSED SESSION CITY OF FREMONT

DATE: Tuesday, June 9, 2009

TIME: 6:00 p.m.

LOCATION: Fremont Room, 3300 Capitol Avenue, Fremont

The City will convene a special meeting. It is anticipated the City will immediately adjourn the meeting to a closed session to confer with and receive advice from its attorney regarding upcoming employee negotiations and receive advice from its attorney regarding granting authority to its real property negotiators regarding price and terms of payment, as follows:

1) CONFERENCE WITH LABOR NEGOTIATOR: The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Melissa Dile, Deputy City Manager; Michael Rich, Human Resources Director; Harvey Levine, City Attorney; Designated Representatives Diana Doughtie and Fran Buchanan as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Association of Management Employees
Fremont Association of City Employees
Operating Engineers
Teamsters Local 856
Fremont Police Association
Professional Engineers and Technicians Association

2) CONFERENCE WITH LABOR NEGOTIATOR: The City Council will hold a special meeting which will commence as an open meeting and then adjourn to a closed session as authorized by subdivision (a) of Section 54957.6 of the Government Code for the purpose of reviewing its position for upcoming employee negotiations and for instructing Fred Diaz, City Manager; Melissa Dile, Deputy City Manager; Michael Rich, Human Resources, Human Resources Director; Harvey Levine, City Attorney; Designated Representatives Diana Doughtie and Fran Buchanan as the City's negotiators regarding salaries, salary schedules, compensation paid in the form of fringe benefits of its represented and unrepresented employees, and for any other matters within the statutorily provided scope of representation.

The names of the organizations representing employees in question are:

Fremont Fire Fighters
Fremont Fire Fighters Battalion Chiefs

3) CONFERENCE WITH REAL PROPERTY NEGOTIATORS: This Closed Session is authorized by Government Code Section 54956.8 at the time and place stated above to confer with and grant authority to its real property negotiators regarding:

Owner	Street address	APN	Total (Sq. Ft.)
UPRR	UPRR Corridor	AIN	13,296
UPRR	UPRR Corridor		8,886
UPRR	UPRR Corridor	519-0950-007-00	6,557
221 Warren Ave.	325-331 Warren Ave., Fremont, CA 94539	519-0950-014-00	3,040
221 Warren Ave.	325-331 Warren Ave., Fremont, CA 94539	519-0950-015-00	67,719
UPRR	UPRR Corridor	519-0950-010-00	4,441
VTA	VTA Corridor		15,327
VTA	VTA Corridor		5,344
ACFC	Warren Avenue	519-0950-013-00	7,999
ATT Communications	Warren Avenue	519-0950-006-03	2,523
VTA	VTA Corridor	519-0950-011-00	5,556
Great China for ACTA	48845 Warm Springs Blvd., Fremont, CA 94539		668
Mission Court for ACTA	440-1055 Mission Court, Fremont, CA 94539		5,447
UPRR	UPRR Corridor	519-1005-029-00	8,943
UPRR	UPRR Corridor	519-1005-31-01	1,045
UPRR	UPRR Corridor	519-1005-031-03	3,020
VTA	VTA Corridor	519-1005-031-03	15,385
East Warren Park, LLC	47003 Mission Falls Ct., Fremont, CA 94539	519-1691-008-00	30,113
East Warren Park, LLC	Mission Falls Ct. Fremont, CA 94539	519-1691-007	12,630
Mission Falls	47153 Warm Springs Blvd., Fremont, CA 94539	519-1691-002-00	365
RAPS	47301 Kato Road, Fremont, CA 94538	519-1680-027-05	395
Walton	47010 & 47050 Kato Road, Fremont, CA 94538	519-1680-038-00	53,729

The Brown Act requires the negotiators (even when not attending the meeting) to be listed in this notice. Those negotiators are:

For the City—(Which will be represented at the meeting) Randy Sabado, Real Property Manager; Jim Pierson, Transportation & Operations Director and Harvey Levine, City Attorney

This Special Meeting is being called by Mayor Wasserman.

AGENDA FREMONT CITY COUNCIL REGULAR MEETING JUNE 9, 2009 COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A 7:00 P.M.

1. PRELIMINARY

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

2. CONSENT CALENDAR

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.

- 2.1 Motion to Waive Further Reading of Proposed Ordinances (This permits reading the title only in lieu of reciting the entire text.)
- 2.2 Approval of Minutes None.

2.3 DOUBLE WOOD DEVELOPMENT AGREEMENT CANCELLATION (PLN2009-00171)

Public Hearing (Published Notice) to Consider the Cancellation of a Development Agreement between Double Wood Golf Course, LLC and the City of Fremont

Contact Person:

Name: Momo Ishijima Jeff Schwob

Title: Associate Planner Planning Director

Dept.: Community Development Community Development

Phone: 510-494-4531 510-494-4427

E-Mail: mishijima@fremont.gov jschwob@fremont.gov

RECOMMENDATIONS:

- 1. Hold public hearing.
- 2. Find the project is exempt from the California Environmental Quality Act (CEQA)

- in that it is not a project which has the potential for causing a significant effect on the environment under CEQA Guideline 15061(b)(3).
- 3. Waive full reading and introduce an Ordinance for the cancellation of the Development Agreement between Double Wood Golf Course, LLC and the City of Fremont

2.4 ANNUAL APPROVAL OF INVESTMENT POLICY

Annual Delegation of Authority to City Treasurer to Manage Investments, and Annual Approval of Investment Policy

Contact Person:

Name: Don Dorman Harriet Commons

Title: Revenue and Treasury Manager Finance Director/Treasurer

 Dept.:
 Finance
 Finance

 Phone:
 510-494-4616
 510-284-4010

E-Mail: ddorman@fremont.gov hcommons@fremont.gov

RECOMMENDATION: Adopt a resolution delegating the City Council's authority to invest and reinvest public funds, and to sell or exchange securities so purchased, to the City Treasurer for one year or until earlier revoked by the City Council; and approving the City's investment policy statement, as amended, for FY 2009/10.

2.5 2009 SLURRY SEAL PROJECT, 8240-B (PWC)

Approval of Plans and Specifications, and Award of Contract to Lowest Responsible Bidder for 2009 Slurry Seal, 8240-B (PWC)

Contact Person:

Name: Jayson Imai Norm Hughes Title: Associate Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4732 510-474-4748

E-Mail: jimai@fremont.gov nhughes@fremont.gov

RECOMMENDATIONS:

- 1. Approve the plans and specifications for 2009 Slurry Seal Project, 8240-B (PWC).
- 2. Accept the bid and award the construction contract for 2009 Slurry Seal Project, 8240-B (PWC), to the lowest responsible bidder, Bond Blacktop, Inc., in the amount of \$906,017.70 and authorize the City Manager or designee to execute the contract.
- 3. Authorize transfer of appropriation of \$500,000 from Fund 526 (Proposition 42) PWC8666 (Niles Boulevard Roadway Improvement) to 526PWC8240.
- 4. Authorize transfer of appropriation of \$500,000 from Fund 508 (Measure B Local Street and Roads) PWC8195 (Citywide Cape Sealing) to 508PWC8666.

2.6 MEASURE B BICYCLE/PEDESTRIAN GRANT ACCEPTANCE

Adopt a Resolution Authorizing the City Manager to Execute an Agreement to Accept a Grant from the ACTIA Measure B Bicycle/Pedestrian Countywide Discretionary Program for the Irvington Area Pedestrian Improvement Project

Contact Person:

Name: Rene Dalton Kunle Odumade

Title: Associate Transportation Transportation Engineer

Engineer

Dept.: Transportation & Operations Transportation & Operations

Phone: 510-494-4535 510-494-4746

E-Mail: rdalton@fremont.gov kodumade@fremont.gov

RECOMMENDATIONS:

- 1. Adopt a resolution authorizing the City Manager or designee to accept \$342,000 of Measure B Bicycle/Pedestrian Countywide Discretionary Program funds from ACTIA to construct pedestrian improvements in the Irvington Area, and to execute any necessary implementing agreements.
- 2. Appropriate the grant funds received to 504PWC 8704, Irvington Area Pedestrian Improvements.
- 3. Appropriate \$58,000 from 509PWC8541, Citywide Bicycle and Pedestrian Projects to 509PWC 8704, Irvington Area Pedestrian Improvements as the City's local match.

2.7 AUTHORIZATION TO PURCHASE PORTABLE RADIOS

Authorization to Purchase Portable Radios in the amount of \$420,899.82 as Part of an Assistance to Firefighters Grant and the Citywide Communication Upgrade Project

Contact Person:

Name:Kelly SessionsBruce MartinTitle:Business ManagerFire Chief

Dept.: Fire Fire

Phone: 510-494-4281 510-494-4200

E-Mail: ksessions@fremont.gov bmartin@fremont.gov

RECOMMENDATION: Authorize the City Manager or designee to purchase 120 portable radios in the amount of \$420,899.82 by using an existing competitively-bid contract through the Alameda County Fire Department as part of the Assistance to Firefighters Grant and the Citywide Communication Upgrade Project.

2.8 PUBLIC HEARING (PUBLISHED NOTICE) TO AMEND THE CITY OF FREMONT MASTER FEE RESOLUTION TO UPDATE CERTAIN RECREATION SERVICES DIVISION FACILITY USE AND SERVICE FEES

Continued Public Hearing (Published Notice) to Consider Recreation Commission Referral - Amendment to City of Fremont Master Fee Resolution to Update Certain Recreation Services Division Facility Use and Service Fees(continued from 6/2/09)

Contact Person:

Name: Kelly King Annabell Holland

Title: Recreation Superintendent II Director

Dept.: Parks and Recreation Parks and Recreation

Phone: 510-494-4327 510-494-4329

E-Mail: kking@fremont.gov aholland@fremont.gov

RECOMMENDATION: That the City Council adopt a resolution amending the Master Fee Resolution to update existing fees for community center rentals, youth sports field rentals, and creating a Youth Partner fee category for youth sports field rentals. In addition, staff recommends City Council approve incorporating the Lions picnic area and Kennedy picnic area into the current facility reservation system, effective July 1, 2009.

2.9 HUMAN SERVICES DEPARTMENT FEE SCHEDULE UPDATE

Public Hearing (Published Notice) to Consider Increases and Modifications to Human Services Department Fees for Youth and Family Services, Aging and Family Services, Paratransit Services, and Family Resource Center Services

Contact Person:

Name: Arquimides Caldera Suzanne Shenfil

Title: Deputy Director Director

 Dept.:
 Human Services
 Human Services

 Phone:
 510-574-2056
 510-574-2051

E-Mail: acaldera@fremont.gov sshenfil@fremont.gov

RECOMMENDATION: Hold a public hearing and adopt a resolution to amend the Master Fee Schedule to update Youth and Family Services counseling fees, Family Resource Center family case management fees, Aging and Family Services (AFS) senior case management fees, and paratransit fees as recommended above.

2.10 FREMONT LANDSCAPING ASSESSMENT DISTRICT 88

Public Hearing (Published and Posted Notice) to Conduct a Public Hearing on the Levy of Annual Assessments for Landscaping Assessment District 88; Adoption of a Resolution Confirming Diagrams and Assessments for District 88 for Fiscal Year 2009/10

Contact Person:

Name: Andrew Russell Norm Hughes Title: Senior Civil Engineer City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4534 510-494-4723

E-Mail: arussell@fremont.gov nhughes@fremont.gov

RECOMMENDATIONS:

- 1. Open public hearing for Levy of Annual Assessment for Existing Zones in District 88.
- 2. Consider all oral statements and written protests.
- 3. Close public hearing.
- 4. Levy the proposed assessment by adopting a resolution confirming Diagrams and Assessments for Fiscal Year 2009/2010 for Fremont Landscaping Assessment District 88 Zones 1-17, 19-21 and 23-47 (Exhibit B).

3. **CEREMONIAL ITEMS**

3.1 Proclamation: National Garden Week, June 7-13, 2009

4. **PUBLIC COMMUNICATIONS**

4.1 **Oral and Written Communications**

REDEVELOPMENT AGENCY – The Redevelopment Agency Board will convene at this time and take action on the agenda items listed on the Redevelopment Agency Agenda. See separate agenda (yellow paper).

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board will convene at this time and take action on the agenda items listed on the Public Financing Authority Agenda. See separate agenda (lilac paper).

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

5. SCHEDULED ITEMS

5.1 SECOND PUBLIC HEARING AND ADOPTION OF FISCAL YEAR 2009/10 OPERATING BUDGET AND APPROPRIATIONS LIMIT Second Public Hearing (Published Notice, Hearing Continued from June 2, 2009) and Adoption of Fiscal Year 2009/10 Operating Budget and Appropriations Limit, and Revision to Reserve Policies

Contact Person:

Name: Catherine Chevalier Harriet Commons

Title: Budget Manager Director Dept.: Finance Finance Phone: 510-494-4615

510-284-4010

E-Mail: cchevalier@fremont.gov hcommons@fremont.gov

RECOMMENDATIONS:

- 1. Hold a public hearing on the operating budget and appropriations limit for FY 2009/10.
- 2. Adopt a resolution adopting the City of Fremont Operating Budget for FY 2009/10.
- 3. Adopt a resolution creating an appropriations limit of \$498,945,662 for FY 2009/10.
- 4. Adopt a resolution approving and adopting the General Fund reserve policy.

5.2 SECOND PUBLIC HEARING ON FY 2009/10 - 2013/14 CIP Second Public Hearing and Consideration of Adoption of the FY 2009/10 - 20013/14 Capital Improvement Program (CIP)

Contact Person:

Name: Sean O'Shea Norm Hughes Title: Management Analyst II City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4777 510-494-4748

E-Mail: soshea@fremont.gov nhughes@fremont.gov

- 1. Hold a public hearing on the five-year FY 2009/10 2013/14 Capital Improvement Program.
- 2. Adopt a resolution approving the FY 2009/10 2013/14 CIP, including the appropriation of the proposed funding amounts from the funding sources shown in the Fund Source and Use report for all five fiscal years, with specific allotments for FY 2009/10 to be made effective July 1, 2009, specific allotments for FY 2010/11 to be made effective July 1, 2010, and specific allotments for each ensuing fiscal year to be made effective July 1 of that fiscal year.
- 3. Approve (reaffirm) the long-term capital debt policy as included in the FY 2009/10 2013/14 CIP.
- 4. Authorize the City Manager to adjust the timing of the specific allotments approved by the City Council. (This allows accelerating or deferring the timing of these funds in response to changed conditions, but does not change the total appropriations for any project.)
- 5. Authorize the City Manager to transfer appropriations and allotments of up to \$50,000 per project from the Capital Improvement Program Cost and Scope Contingency (PWC 8101) and the Emerging Project Reserve (PWC 7101) as necessary.
- 6. Authorize the transfer of the following funds:
 - a) General Plan Update \$225,000 transfer in FY2009/10 from Fund 012 (Community Development Cost Center Fund Balance) to Capital Improvement Fund 501.
 - b) <u>Historic Inventory</u> \$25,000 transfer in FY 2009/10 and \$25,000 transfer in FY 2010/11 of the five year plan from Fund 012 (Community Development Cost Center Fund Balance) to Capital Improvement Fund 501.
 - c) <u>Address Assignment and Parcel Automation</u> \$200,000 transfer in FY2009/10 from Information Technology Systems Fund 620 to Capital Improvement Fund 501.

6. REPORT FROM CITY ATTORNEY

6.1 Report Out from Closed Session of Any Final Action

7. OTHER BUSINESS

7.1 TRAFFIC IMPROVEMENT PROGRAM – FISCAL YEAR 2008/09
Approve the Fiscal Year (FY) 2008/09 Signal Priority List and Allocate Funds
Budgeted for Various Traffic Improvement Project for FY 2008/09 and FY 2009/10

Contact Person:

Name: Ed Evangelista Kunle Odumade

Title: Associate Transportation Transportation Engineer

Engineer

Dept.: Transportation & Operations Transportation & Operations

Phone: 510-494-4424 510-494-4746

E-Mail: eevangelista@fremont.gov kodumade@fremont.gov

RECOMMENDATIONS:

1. Approve the FY 2008/09 Signal Priority List

- 2. Allocate \$905,000 (\$775,000 from FY 2008/09 and \$130,000 from FY 2009/10 once Council approves the current CIP scheduled for adoption on June 9, 2009) from PWC 7953 to the following projects:
 - a. \$285,000 of TIF funds to 531PWC8701 for Intersection Improvements at Stevenson Boulevard/Sundale Drive.
 - b. \$310,000 of TIF funds to 531PWC8702 for Intersection Improvements at Stevenson Boulevard/Besco Drive.
 - c. \$280,000 of TIF funds to 531PWC8703 for Intersection Improvements at Stevenson Boulevard/Davis Street.
 - d. \$30,000 of TIF funds to 531PWC8458 for the FY 2010/11 signal priority list and traffic improvement program preparation.

7.2 TRAFFIC SIGNAL MAINTENANCE AND REPAIR CONTRACT

Award of Contract for Traffic Signal Maintenance and Repair, Fiscal Years 2009/10 through 2011/12

Contact Person:

Name: David Henderson David Huynh

Title: Engineer II Senior Transportation Engineer Dept.: Transportation and Operations Transportation and Operations

Phone: 510-494-4757 510-494-4484

E-Mail: dhenderson@fremont.gov dhuynh@fremont.gov

RECOMMENDATION: Award a three-year contract (Fiscal Years 2009/10 through 2011/12) with the option to extend for up to two additional years to Republic ITS for a not to exceed value of \$1,200,000 for the initial three-year contract and authorize the City Manager or designee to execute the contract.

7.3 DELEGATION OF AUTHORITY TO APPROVE INTERFUND LOANS AND ADVANCES

Delegation of Authority to the City Manager to Approve Loans and Advances Between Certain City Funds Under Specified Terms and Conditions

Contact Person:

Name: Don Dorman Harriet Commons

Title: Revenue & Treasury Manager Finance Director/Treasurer

Dept.: Finance Finance
Phone: 510-494-4616 510-284-4010

E-Mail: ddorman@fremont.gov hcommons@fremont.gov

RECOMMENDATION: Adopt a resolution authorizing the City Manager or designee to approve interfund loans and advances between specified funds in accordance with the terms and conditions specified in the resolution.

7.4 CONSIDER BAY-FRIENDLY LANDSCAPE REQUIREMENTS

Consider a Resolution to Require City Landscape Projects 10,000 square feet or Larger to Meet the Minimum Required Points on the Bay-Friendly Landscape Scorecard and to Encourage Certain Private Development Applicants to Meet 7 of the Bay-Friendly Scorecard Practices

Contact Person:

Name: Roger Ravenstad Norm Hughes Title: City Landscape Architect City Engineer

Dept.: Community Development Community Development

Phone: 510-494-4723 510-4944748

E-Mail: rravenstad@fremont.gov nhughes@fremont.gov

RECOMMENDATION: Adopt a resolution establishing bay friendly landscape requirements for civic improvement projects that include landscaped areas larger than 10,000 square feet and directing staff to work with applicants for all private development projects (except parcels to be developed as single family homes, but including subdivision common areas) to endeavor to achieve 7 of the bay-friendly practices.

7.5 ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT APPLICATION Authorize Staff to Submit an Application to the Department of Energy for \$1,891,200 in Energy Efficiency and Conservation Block Grant Funding; Designate the Community Development Department as the Authorized Representative to Implement the Program; and Authorize the City Manager to Enter Into an Agreement With Stopwaste.org for the "Green Packages" Project

Contact Person:

Name: Dan Schoenholz Jill Keimach
Title: Policy and Special Projects Director

Manager

Dept.: Community Development Community Development

Phone: 510-494-4438 510-494-4767

E-Mail: dschoenholz@fremont.gov jkeimach@fremont.gov

RECOMMENDATIONS:

1. Authorize staff to submit an application to the Department of Energy for \$1,891,200, including the activities and amounts outlined in this staff report.

- 2. Authorize the Mayor to sign a letter designating the Community Development Department as the City's Authorized Representative for implementation of the EECBG program.
- 3. Adopt resolution authorizing the City Manager or designee to enter into an agreement and implementing documents with StopWaste.org for the Green Packages project, subject to receipt of EECBG funds.
- 4. If grant is awarded to the City, then Council approves the appropriation of funds to projects for \$1,891,200.

8. COUNCIL COMMUNICATIONS

- 8.1 Council Referrals
 - 8.1 COUNCILMEMBER WIECKOWSKI REFERRAL: Request the City Council to Direct Staff to Meet with the Math Science Nucleus to Explore Options Available within City Owned Buildings that could House a Children's Natural History Museum.
- 8.2 Oral Reports on Meetings and Events

9. ADJOURNMENT



*2.3 DOUBLE WOOD DEVELOPMENT AGREEMENT CANCELLATION (PLN2009-00171) Public Hearing (Published Notice) to Consider the Cancellation of a Development Agreement between Double Wood Golf Course, LLC and the City of Fremont

Contact Person:

Name: Momo Ishijima Jeff Schwob
Title: Associate Planner Planning Director

Dept.: Community Development Community Development

Phone: 510-494-4531 510-494-4427

E-Mail: mishijima@fremont.gov jschwob@fremont.gov

Executive Summary: The applicant is requesting approval for the cancellation of a Development Agreement between Double Wood Golf Course, LLC and the City of Fremont under Fremont Municipal Code (FMC) Section 8-7110 (Development Agreement – cancellation). The applicant has indicated that there are no current development plans for the 400-acre site. Planning Commission held a public hearing on May 14, 2009 and recommends approval of this cancellation.

BACKGROUND: In May of 1990, the City Council approved P-90-9 (Planned District), DA-90-1 (Development Agreement), EIR-90-31 (Environmental Impact Report) and GP-90-7 (General Plan Amendment) for the Avalon residential project. On May 23, 1995, the City Council approved Planned District Major Amendment P-90-9H to allow a party other than the Homeowner's Association to maintain the westerly 400 acre open space area. On July 9, 1996, the City Council approved Double Wood's proposed amendment to the Planned District, P-90-9I and EIR-90-31A (Subsequent EIR), for an 18-hole golf course.

On October 11, 2001, the Planning Commission approved a preliminary grading plan and minor amendments to the Planned District to reflect changes resulting from requirements of the State Regional Water Quality Control Board (PLN2001-00360). On July 23, 2002, the City Council adopted Ordinance No. 2482 and the City entered in to a Development Agreement with Double Wood Golf Course, LLC (PLN2002-00273). Subsequently, there have been annual reviews of the Development Agreement and an extension of the preliminary grading plan to October 31, 2008 (now expired).

In November of 2002, Fremont voters approved Measure T, the Hill Area Initiative. Measure T modified the 1981 Hill Area Initiative that had governed development in Fremont's hill area for over twenty years. On July 12, 2005, the City Council adopted the zoning text amendment modifying regulations for the O-S (Open Space), P-F (Public Facilities), P-D (Planned District), other zoning regulations (Definitions & Development Standards) and the development policy for the Hill Area to implement Measure T. The golf course development was not subject to voter-enacted Measure T because of the vested rights provided by the Development Agreement.

Project Description: The Development Agreement is valid for 10 years and is due to expire on August 24, 2012. If the project were built, some of the benefits to the city under the agreement would include green fee discounts for seniors and juniors, City-sponsored tournaments, advance bookings for residents, use of clubhouse. However, the applicant has indicated that there are no current development plans for the 400-acre site, and is requesting approval for the cancellation of a Development Agreement between

Double Wood Golf Course, LLC and the City of Fremont under Fremont Municipal Code (FMC) Section 8-7110 (Development Agreement – cancellation).

Staff recommends that the Council approve the cancellation as the developer has no outstanding conditions or obligations at this stage under the agreement, and although the agreement will lapse by terms in three years, the developer has stated that he has no plans to build the project and accordingly desires to surrender his vested development rights now. As the developer has the unfettered right not to build the project, the developer has the right to request cancellation at this time. One benefit to the developer of canceling the agreement now is avoiding having to apply for annual Planning Commission review on the status of the development agreement as required by law and incurring the associated expense of the review.

ISSUES:

<u>Use:</u> The land use designation over a majority of the project site is Hill Face Open Space. If the Development Agreement were to be cancelled, the project would no longer have "vested rights" and the current regulations governing land use in the hill area would apply. The property would be fully subject to the Hill Area Initiative of 2002 (Measure T.) Since the site was originally part of the larger Avalon development, there is no residential density associated with the project site as all density was transferred previously.

The following lists potential future uses for the majority of the project site:

- ➤ Hill Face Open Space Permitted Uses
 - Agriculture
 - Grazing
 - Nature observation activities
 - Public parks
- ➤ Hill Face Open Space Zoning Administrator Permit Uses
 - Occasional short-term events related to agriculture or animals
 - Commercial small scale, low-intensity rearing, training of animals
- ➤ Hill Face Open Space Conditional Use Permit Uses
 - Outdoor recreational uses (not enclosed in a building)
 - Public facilities

Smaller areas of the project site have land use designations of Open Space. While the Open Space designation allows for more potential uses, there are substantial constraints on the use of these areas. The areas either are adjacent to I-680 or have access issues or they are on constrained land with slopes greater than 30% or constrained by riparian creeks.

<u>Landslides</u>: The project site is located in a hillside area with topography that includes moderate to steep slopes, rounded ridges, and ephemeral creeks. The creeks include Toroges Creek, Arroyo Agua Fria Creek, and Creek B (discussed below). Much of the golf course site is underlain by landslide-prone sedimentary bedrock and landslide deposits of various sizes are found throughout the site.

In response to developing the golf course and associated facilities, the project included extensive grading, slope stabilization, landslide repair, creek restoration and drainage facility construction. Without construction of the project, ongoing erosion and landslides may occur subject to rainfall and seismic events.

Toroges Creek - Approximately 2,900 linear feet of Toroges Creek was to be vertically realigned, by filling the creek. An open concrete chute, approximately 290 feet long, was to be constructed to bring water down from an elevation of 300 feet to 220 feet to a rock energy dissipater. The creek and chute construction was intended to prevent ongoing erosion on site and down stream of the golf course.

Creek B – Although Creek B is not on the golf course property, access from Avalon Heights Terrace to the golf course crosses Creek B. In 1998, Creek B was damaged by erosion and landslides after severe rain storms. Avalon Homes was required by the Army Corps of Engineers, California Department of Fish and Game and the California Regional Water Quality Control Board to repair Creek B and its riparian habitat. A restoration plan, including a mitigation monitoring plan was approved by the above mentioned public agencies in 2001. Double Wood Golf Course, LLC., subsequently took over the responsibility of the Creek Restoration Project and has completed all of the mitigations and annual monitoring. No further action has been required and no further landslide damage has been reported in the area.

<u>On-going Maintenance:</u> The ongoing maintenance of the approximately 400 acre property will be the responsibility of the property owner, currently Double Wood Golf Course, LLC. The original Planned District (P-90-9) approval for the Avalon residential project included the following condition of approval:

• Condition 7 - The developer shall be responsible for the maintenance of the western open space area, encompassing approximately 426 acres, located between the proposed residences and Interstate 680, for a period not to exceed five years after the completion of all residences within the proposed project. No later than five years after the completion of all residences, the developer shall convey to the Homeowners Association the title for the western open space area. A statement shall be incorporated in the CC&Rs for this project (or other appropriate document) that the Homeowners Association must accept this conveyance of open space no later than fiver years after the completion of all residences. Both the developer (for the period of time the tile to the property is in his/hers/its name) and the homeowners association shall maintain the open space area in a safe and sanitary manner.

This condition was removed through Planned District Major Amendment (P-90-9H) on May 23, 1995 by the City Council when it approved allowing a party other than the Homeowner's Association to maintain the westerly open space area. No new conditions related to the long-term maintenance, if or when the golf course development was abandoned, were included in subsequent approvals.

There are several easements throughout the project site. Most easements are private, however, there are some public easements. The public easements include easements for sanitary sewer and the south bay aqueduct. The private easements are mainly for storm drain purposes for the Avalon Homes development. Storm water and storm drain facilities from the Avalon Homes development discharge

into the project site. The ongoing maintenance of the easements are the responsibilities of the private and public entities with interests within the easements.

General Plan Conformance:

The cancellation of the development agreement is found to be consistent with the following General Plan Goals:

Land Use Chapter

Goal LU 4: Conservation of the City's open space resources.

Open Space Chapter

Goal OS 1: Open space in the hills to protect Fremont's eastern open space frame.

Analysis: The fundamental goal of the City is to maintain the existing open space frame that makes Fremont a special place. While the cancellation of the development agreement may take away from meeting recreational needs of the area residents, the conservation of open space helps protect and enhance lands committed to other open space uses and allows other General Plan goals to be fulfilled.

Planning Commission Recommendation: The Planning Commission at its May 14, 2009 meeting conducted a public hearing on the proposed Development Agreement cancellation. The Planning Commission recommended City Council approval of an Ordinance as shown in Exhibit "A" by a vote of 5-0-2-0.

Environmental Review: The proposed project involving the cancellation of a Development Agreement, has been reviewed under the California Environmental Quality Act (CEQA) Guidelines and has been found to be exempt from environmental review per Section 15061(b)(3)[Review for Exemption], which applies when the activity has no potential for causing a significant effect on the environment because the project site will remain in its existing natural state in lieu of a golf course development.

Public Hearing Notification: Public hearing notification is applicable. A total of 327 notices were mailed to owners and occupants of properties within 300 feet of the site. In addition, 12 notices were mailed as a courtesy to public agencies and interested parties. A Public Hearing Notice was published by The Tri-City Voice.

ENCLOSURES:

- Exhibit "A" Draft Ordinance
- Informational Items
 - 1. Applicant letter dated January 31, 2009
 - 2. Ordinance No. 2482
 - 3. Double Wood Golf Course Development Agreement
 - 4. Project Summary Data and Maps
 - 5. Draft Planning Commission Meeting Minutes
 - 6. Correspondence with Planning Commissioners

RECOMMENDATIONS:

- 1. Hold public hearing.
- 2. Find the project is exempt from the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment under CEQA Guideline 15061(b)(3).
- 3. Waive full reading and introduce an Ordinance for the cancellation of the Development Agreement between Double Wood Golf Course, LLC and the City of Fremont.

*2.4 ANNUAL APPROVAL OF INVESTMENT POLICY

Annual Delegation of Authority to City Treasurer to Manage Investments, and Annual Approval of Investment Policy

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Executive Summary: The City Council may elect to delegate its authority to invest and reinvest City funds to the City Treasurer for up to one year pursuant to California Government Code Section 53607. Government Code Section 53646(a)(2) provides for the City Council's annual consideration of the City's investment policy at a public meeting. The City Council delegated investment authority to the Treasurer and approved the City's investment policy for fiscal year 2008/09 on June 10, 2008. Since then, the Treasurer has applied the policies, practices, and strategies described below to assure daily operational compliance with the investment policy standards.

Discussion: The City Council is expressly authorized to invest and manage the City's public funds by Government Code Section 53600.3. Government Code Section 53607 authorizes the City Council to delegate its responsibility for conducting investment transactions to the City Treasurer for up to one-year. The proposed policy and delegation of authority will be effective starting July 1, 2009, and will continue in effect throughout fiscal year 2009/10 if adopted by the City Council.

Reviewing the monthly Treasurer's transaction reports ("Treasurer's Report") is one of the activities by which the City Council exercises its ultimate responsibility for the investment function. Each Treasurer's Report describes the portfolio's composition and recent performance, and reports the month's investment transactions. Within each Treasurer's Report, the Treasurer certifies that all investments were made in compliance with the investment policy and that there are adequate funds to pay City obligations for at least six months. The monthly reports also give updates on market conditions and the investment selection plan being used to implement the approved investment policy.

Once adopted by Council, the investment policy sets portfolio management objectives and practices, specifies allowable investment instruments, states the criteria for purchasing those securities, prohibits certain types of security purchases, and fixes the maximum investment horizon (generally five years). The Treasurer uses these guidelines to manage, safeguard and invest all public funds held by the City and the Redevelopment Agency, except for debt proceeds. Debt proceeds are invested in accordance with investment policies approved by the City Council when the debts were first issued. These investment transactions are executed by the trustees of the respective debt issues under the direction of City staff.

Proposed Amended Investment Policy: The proposed investment policy for FY 2009/10 is unchanged from the FY 2008/09 policy, except for new language permitting the City to purchase debt issued by the other 49 United States in addition to the existing authorization to purchase notes and bonds issued by the

State of California. The proposed addition becomes the fourth bullet under the **AUTHORIZED AND SUITABLE INVESTMENTS** section, and reads as follows:

• Registered treasury notes or bonds of any of the other 49 United States in addition to California.

Existing policy permits the Treasurer to purchase notes and bonds issued by the State of California. The California legislature amended California Government Code Section 53601 (A.B. 1745) to permit public funds to be invested in debt issued by any of the other 49 United States. This proposed amendment brings the City's investment policy into congruence with permitted investments under State law. Recent economic events and California's budget problems make debt issued by other states at least as safe as debt issued by California.

Investing Policy Implementation: Treasury Division practices are designed, and frequently monitored, to achieve the three key portfolio objectives: (1) safety, and (2) liquidity with (3) optimal portfolio yield. There are risks inherent in fixed income investing, such as market/interest rate risk, credit/default risk, reinvestment risk, and liquidity risk. Other portfolio management risk factors relate to errors, theft, poor judgment, and misappropriation. Treasury Division staff constantly identify, monitor, and manage portfolio risk factors in order to accomplish the portfolio objectives.

The Treasury Division's internal control structure is implemented through written procedures that cover: (1) segregating the duties of investing, security custody, and recordkeeping; (2) cross-checking by accounting personnel; (3) reconciling bank and security accounts to the City's books; and (4) regular reporting. The City's independent outside auditors review the City's internal controls, test selected investment transactions and account balances, and report their findings (if any) to the City Council, as part of their audit. The Treasurer reviews and ratifies every investment transaction and reviews each monthly Treasurer's Report before it is published.

Market risk, reinvestment risk, and credit risk are reduced, though they cannot be eliminated entirely. Credit risk is managed by only purchasing highly rated securities as permitted under investment policy guidelines. Market, reinvestment and credit risks are all managed by diversifying the portfolio in regards to average maturity, segment composition, issuers, and call structure.

Liquidity risk is managed by maintaining prudent balances in market accounts and in the State of California Local Agency Investment Fund (LAIF – a State-wide investment pool). These are very liquid investments, meaning that they can be accessed on short notice; generally one day or less. Other short-term investments with maturities of less than one year (high-grade commercial paper, bankers acceptances, and U.S. Treasury bills) help the City maintain an adequate liquidity cushion.

Typically, the largest portion of the City's longer-term sub-portfolio is invested in government sponsored enterprise (GSE) notes and bonds. The GSEs are comprised of the Federal Home Loan Bank ("FHLB"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal National Mortgage Association ("Fannie Mae"), and the Federal Farm Credit Bank ("FFCB"). GSE debt is rated Aaa, AAA, and AAA by Moody's, Standard and Poors, and Fitch, respectively. The City also invests in medium term notes of five years and less issued by major corporations whose debt is rated Aa/AA or better at the time of purchase.

Debt instruments issued by Freddie Mac and Fannie Mae carry the rating agencies' highest Aaa/AAA ratings now only because they are backed by the U.S. Government. The federal government essentially saved them through nationalization in late 2008. Their reserves fell below minimum standards because of the national mortgage crisis. Nonetheless, all GSEs currently retain their Aaa/AAA credit ratings.

The economic crisis has also caused some of the credit ratings on City-owned corporate notes to be downgraded in the last several months. The credit ratings met policy guidelines when the investments were purchased, and all remain rated at least A/A. Rather than sell any investments at a loss, the City continues to hold these investments and monitor their credit status frequently. In particular, the City holds \$1 million in notes issued by AIG (maturing in November 2011). Although this corporation has suffered a dramatic reversal of its fortunes since September 2008, the backing it has received directly from the U.S. government (and the government's current holding of a majority ownership interest) leads staff to conclude that this investment is still better held than sold. In the meantime, these corporate notes are generating relatively high yields and are not subject to being called.

Market Context: All investors, including the City, act within the context of the larger financial markets. These financial markets essentially ceased functioning normally in September and October 2008. Lehman Brothers unexpectedly fell into bankruptcy over a weekend. Several of the largest financial institutions in the world either disappeared into the arms of purchasers (Wachovia Bank, Merrill Lynch, Countrywide Savings), or became wards of the federal government (AIG, Fannie Mae, Freddie Mac), or went out of business (Lehman Brothers, Washington Mutual Bank, Bear Stearns), or required massive infusions of capital from their federal government (Citibank, Bank of America, and banks of the nations of the United Kingdom, Ireland, Iceland, and France).

The U. S. Central Bank, the Federal Reserve Bank (the FED), lowered its target federal funds interest rate to a range of 0.00 - 0.25% in late 2008 and has since kept it there. Gross domestic product (GDP) collapsed into negative territory and millions of people lost their jobs as companies slashed payrolls in the fourth quarter of 2008 and the first quarter of 2009. As painful as this deep recession has been in the United States, it has caused even greater havoc to some foreign economies. These events are truly economic shocks of world-wide significance.

With inflation fears being replaced by deflation concerns, commodity prices fell dramatically (for example, oil fell from about \$134/barrel at this time last year to less than \$60/barrel as this agenda item is being prepared). The U.S. Treasury and the FED felt free to pump over \$3 trillion of liquidity into the U.S. economy to stimulate aggregate demand. Interest rates on "safe" investments have fallen to levels last seen in the early 2000s, after the "dot-com" bubble burst.

Despite the economic carnage, there are "green shoots" (in the words of FED chairman, Ben Bernanke) of economic revival showing in the second quarter of 2009: home sales, if not prices, are starting to again show year-over-year increases, retail sales declines nationally are leveling off, and business inventories are at unusually low levels relative to sales. Most importantly, the daily functioning of credit markets is returning to more normal patterns. The atmosphere of panic and fear that gripped consumers in late 2008 and early 2009 seems to be abating according to national consumer confidence surveys.

Investment yields on potential new investments for the City's portfolio are well below yields of one year ago. The FED is actively buying U.S. Treasury Notes, Bonds, and GSE Notes to force money into the

economy and to keep interest rates artificially low to stimulate the housing and retail markets. This FED effort, labeled "quantitative easing," essentially means the FED is printing money. Eventually, unless masterfully reversed, such practices are very likely to result in higher inflation and higher interest rates.

Portfolio Yield Performance: Yields for both the City portfolio and its benchmarks fell throughout FY 2008/09 (through April 30). The City's average monthly portfolio yield for April 2009 was 2.86%, compared to 4.60% for April 2008. The City's annual cumulative yield through April 2009 is 3.96% versus 4.92% one year earlier. By comparison, LAIF's daily yield decreased from 3.22% in April 2008 to 1.49% in April 2009.

The City's portfolio was not spared from loss related to the economic events. The City held \$2 million of Lehman Brothers commercial paper and \$2 million of their medium term notes when that company filed for bankruptcy in September 2008. The City has written these investments down to zero and recognized a loss pending any potential recovery. The City has taken the following actions in pursuit of recovery: (1) filed its bankruptcy court claim, (2) sued Lehman's accountants, debt underwriters, and corporate leaders in federal court for securities law violations and for making misrepresentations concerning Lehman's financial condition, and (3) joined public entities from across the U.S. who also bought Lehman Brother's debt in efforts to secure reimbursement from the U.S. Treasury's Troubled Asset Recovery Program (TARP). Neither the ultimate success of these efforts, nor the amount of recovery, nor the time until any recovery is received can be accurately assessed.

The dollar-weighted average maturity of the City's portfolio decreased from 673 days at the end of April 2008 to 553 days at the end of April 2009. GSE issuers have redeemed their callable bonds before the stated maturity dates at a furious pace since September 2008 as market yields plummeted well below the issued bonds' coupon rates. Much of this cash has been re-invested in the money market account (which holds U.S. Treasury bills) and the Local Agency Investment Fund (LAIF).

The Current Plan: The investment plan that put the investment policy strategies into effect by guiding daily purchases requires staff to evaluate macro-economic trends and cycles, and to develop expectations about future interest rate trends. Staff formulates its operating plans throughout the year to give structure to these evaluations and judgments. For example, when rates were relatively high and expected to fall, longer term investments were purchased to lock-in the high rates. Bonds purchased one to three years ago have somewhat slowed the rate of descent of the portfolio's yield.

Presently, rates are very low and expected to stay in this range for at least the next six to nine months with occasional, temporary, upticks in market rates. The City is unable to invest new money it receives (call proceeds, property taxes, etc.) at rates even close to what was available just one year ago. The financial upheaval has reduced the apparent safety of some investment opportunities that the City previously availed itself of, such as commercial paper issued by some financial corporations. Staff's current operating plan is to maintain higher than normal liquidity in the money market account (which purchases only the safest of investments: U.S. Treasury-issued notes and bills) and the California Local Agency Investment Fund (LAIF). This extra cash is available for unexpected interruptions to City revenues and to buffer any monies taken by the State of California to handle its budget emergency. The extra cash will be available to purchase higher yielding longer-term investments if and when rates start moving higher.

Staff's outlook is for market interest rates to stabilize somewhat over the next several months, but for overall rates to continue at below historic averages until the FED ceases its direct market intervention programs. LAIF's daily rate is in the 1.5% range now and is expected to stay there (or lower) for awhile. Short-term U.S. Treasury investments of two years and less are yielding from 0.28% to slightly less than 1%. Although market interest rates are expected to be pressured upward somewhat throughout the summer by the U.S. Treasury selling trillions of dollars in new debt needed for its stimulus programs and by the GSEs needing to finance loans for housing bargain shoppers, the Federal Reserve Bank's market operations are likely to blunt these pressures and keep rates low. However, over the mediumterm (two to three years), staff expects that the fiscal and monetary stimuli measures are likely to lead to rates of both inflation and interest that are higher than their historical averages.

Until there is evidence of a real change in economic fundamentals, such as in the unemployment rate, inflation, GDP, and productivity data, staff recommends maintaining higher than normal liquidity levels. Staff will seek to take advantage of any market fluctuations that do occur to buy select investments offering relatively higher interest rates, given these market conditions. LAIF and money market instruments will constitute higher than normal percentages of the portfolio under this plan.

In the "good old days" (one year ago), when the U.S. still had a major investment banking industry, when the "Big Three" still led the world automobile industry, when AIG was still the world's largest insurance company, and when Fannie Mae and Freddie Mac were still independent corporations not held "in trust" by the federal government, staff wrote,

When formulating investment strategies and tactics, humility is a virtue. After all the economists' predictions are considered and after all the analyses are performed, the only spot-accurate projection likely to be fulfilled is that events will unfold differently than projected.

Staff did not fully appreciate how true this would be back then. With the City Council's approval, and with this admonition in mind, staff asks the Council to delegate authority to manage the portfolio in fiscal year 2009/10 in accordance with the Council's long established policy objectives of earning a market-reasonable rate of return within the overriding constraints of portfolio safety and adequate liquidity.

ENCLOSURES:

- <u>Draft Resolution</u>
- Exhibit A -- Statement of Investment Policy (2009/10)

RECOMMENDATION: Adopt a resolution delegating the City Council's authority to invest and reinvest public funds, and to sell or exchange securities so purchased, to the City Treasurer for one year or until earlier revoked by the City Council; and approving the City's investment policy statement, as amended, for FY 2009/10.

*2.5 2009 SLURRY SEAL PROJECT, 8240-B (PWC)

Approval of Plans and Specifications, and Award of Contract to Lowest Responsible Bidder for 2009 Slurry Seal, 8240-B (PWC)

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Executive Summary: The purpose of this report is to recommend that the City Council approve the plans and specifications, and accept the bid of and award the contract for construction to Bond Blacktop, Inc., in the amount of \$906,017.70 for the 2009 Slurry Seal Project, 8240-B (PWC).

BACKGROUND: The City's Engineering and Street Maintenance divisions jointly operate a pavement management system (PMS) that tracks street surface conditions and recommends annual resurfacing and rehabilitation actions for cost-effective maintenance of the City's streets. The PMS recommends the following two classes of treatments:

- Preventive maintenance treatments, such as slurry seals, chip seals and cape seals, that improve the pavement surface and extend pavement life at a relatively low cost, and
- Rehabilitation treatments, such as overlays and pavement reconstruction, that restore a worn pavement to full serviceability at a relatively high cost by correcting the unavoidable deterioration of pavements caused by age, truck traffic, sunlight, rain and irrigation water.

In order to qualify for certain federal funds earmarked for pavement maintenance, the Metropolitan Transportation Commission (MTC) requires municipalities to spend a minimum amount of their pavement maintenance budget on preventative maintenance projects each year. This minimum amount will vary slightly from city to city and is based primarily on the existing condition of the city's streets. Historically, the MTC has required the City of Fremont to allocate about 14% of its pavement maintenance budget towards preventative maintenance projects.

This project, 2009 Slurry Seal, 8240-B (PWC), will provide preventative maintenance for 102 sections of the City's major arterials and residential collector roads and the parking lot at the Fremont Main Library covering nearly 518,000 square yards of pavement surface. Staff anticipates this project will fulfill the requirements set by MTC for annual preventative maintenance.

A slurry seal involves the application of emulsified oil and sand to the existing pavement surface. Slurry seals are used on streets that are in reasonably good condition, have few or minor failed areas and do not require additional treatment to the pavement wear surface. Slurry seals are a relatively inexpensive maintenance treatment used on streets during the early stages of their useful life to restore and protect the pavement surface. Although slurry seals cannot restore lost load carrying capacity (structural

integrity), they can slow down the deterioration of the street and extend the pavement life by up to five years when compared to a street left untreated.

Traffic Control: Due to the size, scope and number of major arterials and residential collector roads included in this project, staff anticipates that residents and the traveling public will experience some inconvenience during construction. To minimize exposure of the slurry seal to vehicular traffic, staff and the contractor will limit access to and use of the roadway during construction. Individual traffic lanes and, if necessary, project street sections will be closed to traffic in order to facilitate crack sealing operations and the application of the slurry seals.

To mitigate the impact of traffic delays on the public, the contractor must provide definitive traffic control plans. City staff will review and approve all traffic control plans prior to construction and will monitor traffic control work during construction to minimize the impact to the public. In addition, the contractor will post notices of parking restrictions on project streets no less than 72 hours before the start of work. Each affected business or residence will also receive a flyer describing the work, traffic impacts and parking restrictions at least two weeks before each phase of the work. Follow-up notices will again be distributed no later than two days prior to the start of construction. Throughout construction, notices will be posted on the City's website informing the public of which streets will be affected and the upcoming construction schedule.

Slurry seal will be applied within the following signalized intersections on Paseo Padre Parkway:

- Paseo Padre Parkway/Thornton Avenue
- Paseo Padre Parkway/Isherwood Way
- Paseo Padre Parkway/Decoto Road

Due to the high volume of traffic at these intersections on weekdays, slurry seal operations within these intersections will be limited to Sundays between the hours of 7:30 am to 5:00 pm in order to minimize traffic impacts to the public. The contractor is required to submit specific traffic control plans for each of the intersections listed above for staff review and approval prior to construction.

Also included in the 2009 Slurry Seal project is the Main Library parking lot. To mitigate potential construction impacts to library patrons, all slurry seal and re-striping operations within the Main Library parking lot will be limited to Sundays between the hours of 7:30 am to 5:00 pm. The Main Library is closed to the public on Sundays.

DISCUSSION:

Bid Results: Staff opened bids on May 20, 2009 for the 2009 Slurry Seal project, 8240-B (PWC). The project's total base bid is for 102 street segments and the Main Library parking lot. Bids were received, as follows:

BIDDER	TOTAL BID	<u>RANK</u>
Bond Blacktop, Inc.	\$ 906,017.70	1
Graham Contractors, Inc.	\$ 906, 510.14	2
American Asphalt Repair and Resurfacing Company, Inc.	\$ 1,013,256.55*	3
Valley Slurry Seal Company	\$ 1,037,144.05	4

^{*}Mathematically corrected Engineer's estimate \$1,300,000

The low monetary bidder, Bond Blacktop, Inc., is a responsive bidder with experience in this type of work. Their bid is responsive to the bid package and all bid documents are in order.

PROJECT COSTS: The following is an estimate of the project costs:

Staff – Design/Design Administration (660 hours)	\$65,000.00
Construction Cost (low bid – includes \$100,000 construction contingency)	\$906,017.70
Staff – Roadway Preparation (200 hours)	\$20,000.00
Staff – Construction Inspection and Administration (900 hours)	\$90,000.00
Project Contingency	\$80,000.00

TOTAL Estimated Construction Costs

\$1,161,017.70

FUNDING: Funding is available for the project, as follows:

Fund 142 State Gas Tax	\$ 46,000.00
Fund 526 Proposition 42*	\$ 1,100,000.00
Fund 501, City Owned Parking Lots for Administrative Facilities	
and Parks and Recreation, 8652 (PWC)	<u>\$22,000.00</u>

TOTAL Estimated Available Funding

\$ 1,168,000.00

Staff recommends that \$500,000 of Fund 526, Proposition 42 AB2928 funds be transferred from Niles Boulevard Roadway Improvement, City Project 8666 (PWC) to Citywide Slurry Sealing, City Project 8240 (PWC). The Proposition 42 funds allocated to the Niles Boulevard Roadway Improvement Project must be expended by the end of Fiscal Year 2009/10. The Niles Boulevard Roadway Improvement Project is currently in the preliminary design stage. Based on the current project schedule, staff does not anticipate being able to spend the Proposition 42 funds allocated to the Niles Boulevard Roadway Improvement Project by the end of Fiscal Year 2009/10. Staff recommends that \$500,000 of Fund 508 – Measure B Local Street and Roads funds be transferred from Citywide Cape Sealing, City Project 8195 (PWC), to Niles Boulevard Roadway Improvement, City Project 8666 (PWC), to replace the Proposition 42 funds transferred out.

^{*} Includes \$500,000 from Fund 526, Proposition 42 AB2928, Niles Boulevard Roadway Improvement, City Project 8666 (PWC)

Based on the contract amounts and project cost estimates, there are sufficient funds budgeted for this project.

ENVIRONMENTAL: This project is categorically exempt under Section 15301 (c) of the Guidelines for the California Environmental Quality Act as the minor alteration of an existing facility. Staff will file the notice with the Alameda County Recorder's Office.

ENCLOSURE: Location map and street list

RECOMMENDATIONS:

- 1. Approve the plans and specifications for 2009 Slurry Seal Project, 8240-B (PWC).
- 2. Accept the bid and award the construction contract for 2009 Slurry Seal Project, 8240-B (PWC), to the lowest responsible bidder, Bond Blacktop, Inc., in the amount of \$906,017.70 and authorize the City Manager or designee to execute the contract.
- 3. Authorize transfer of appropriation of \$500,000 from Fund 526 (Proposition 42) PWC8666 (Niles Boulevard Roadway Improvement) to 526PWC8240.
- 4. Authorize transfer of appropriation of \$500,000 from Fund 508 (Measure B Local Street and Roads) PWC8195 (Citywide Cape Sealing) to 508PWC8666.

*2.6 MEASURE B BICYCLE/PEDESTRIAN GRANT ACCEPTANCE

Adopt a Resolution Authorizing the City Manager to Execute an Agreement to Accept a Grant from the ACTIA Measure B Bicycle/Pedestrian Countywide Discretionary Program for the Irvington Area Pedestrian Improvement Project

Contact Person:

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Executive Summary: The Alameda County Transportation Improvement Authority (ACTIA) recently awarded the City with a \$342,000 discretionary Bicycle/Pedestrian grant to construct pedestrian improvements at six intersections along Fremont Boulevard between Eugene Street and Washington Boulevard in the Irvington Area. Project improvements will include construction of bulb-outs, median refuge islands, American Disability Act (ADA) compliant curb ramps, and accessible pedestrian signal devices; modifying existing roadway striping; upgrading existing traffic signage; and installing pedestrian count-down signals.

The proposed project will improve pedestrian facilities and provide traffic calming measures in the vicinity of bus stops, businesses, senior housing facilities and the future Irvington BART Station.

To complete the City's acceptance of the grant funds, ACTIA requires that the City Council approve a resolution authorizing the City Manager to execute an agreement required to receive the grant. This report also requests that the Council appropriate the grant funds received to 504PWC 8704, Irvington Area Pedestrian Improvements. The total project cost estimate is \$400,000. Therefore, staff is also recommending that the City Council appropriate the remaining \$58,000 as the local match from Bicycle and Pedestrian Project funds available in the City's Capital Improvement Program (509PWC8541).

BACKGROUND: The voters of Alameda County, pursuant to the provisions of the Local Transportation Authority and Improvement Act, approved the reauthorization of Measure B at the General Election held on November 7, 2000, thereby giving ACTIA the responsibility to administer the proceeds from the continued one-half cent sales tax. The Measure B Program Bicycle and Pedestrian Countywide Discretionary Fund is a competitive grant program funded from the five percent of Measure B funds dedicated to bicycle and pedestrian programs. The grant fund program goal is to expand and enhance bicycle and pedestrian access, convenience, safety and usage in Alameda County, focusing on projects with countywide significance. The City submitted a grant application in December 2008, and in May 2009, ACTIA awarded a Measure B Bicycle/Pedestrian Countywide Discretionary Program grant of \$342,000 to the City of Fremont for pedestrian facilities improvements at intersections on Fremont Boulevard between Eugene Street and Washington Boulevard in the Irvington Area.

This segment of Fremont Boulevard in the Irvington District consists of seven bus stops/shelters, four bus lines (Line 210, 212, 328, and 329), numerous shops, retail services, restaurants, offices, multi-unit housing, senior housing, and is within a third of a mile of the proposed future Irvington BART Station.

The project will improve pedestrian facilities and pedestrian safety in the Irvington Area, and facilitate access to bus stops along Fremont Boulevard.

DISCUSSION: The Irvington Area Pedestrian Improvements project was developed by staff from elements of the 2006 Alameda Countywide Strategic Pedestrian Plan and the City's Pedestrian Master Plan Projects list. The Irvington area of Fremont Boulevard is categorized in the Alameda County Strategic Pedestrian Plan as a "High Priority Transit Corridor" and the Irvington District is classified as a Commercial District having countywide significance. The proposed project was supported and recommended by the City's Bicycle and Pedestrian Technical Advisory Committee at their November 19, 2008 regular meeting and is consistent with the projects in the current Fremont Pedestrian Master Plan adopted by Council in December 2007.

The Irvington Area Pedestrian Improvements Project calls for pedestrian improvements at six intersections along Fremont Boulevard between Eugene Street and Washington Boulevard. The proposed improvements are for traffic calming and pedestrian safety, which includes construction of bulb-outs, median refuge islands, American Disability Act (ADA) compliant curb ramps, and accessible pedestrian signal devices, modification of existing roadway striping, upgrading existing traffic signage, and installing pedestrian count-down signals.

To complete the City's acceptance of the \$342,000 discretionary Bicycle/Pedestrian grant for the Irvington Area Pedestrian Improvements Project, ACTIA requires that the City Council approve a resolution authorizing the City Manager to execute an agreement required to receive the grant. There is also a local match requirement for the grant. The total project cost estimate is \$400,000, and the local match is \$58,000. There are funds available in 509PWC8541 (Citywide Bicycle and Pedestrian Projects) account to cover the local match.

Environmental Impact: This project is categorically exempt from review under the California Environmental Quality Act, pursuant to CEQA Guidelines Section 15301(c) which provides that projects for the maintenance or minor alteration of existing facilities are categorically exempt. A Notice of Exemption will be filed with the County Clerk.

ENCLOSURE: Draft Resolution

RECOMMENDATIONS:

- 1. Adopt a resolution authorizing the City Manager or designee to accept \$342,000 of Measure B Bicycle/Pedestrian Countywide Discretionary Program funds from ACTIA to construct pedestrian improvements in the Irvington Area, and to execute any necessary implementing agreements.
- 2. Appropriate the grant funds received to 504PWC 8704, Irvington Area Pedestrian Improvements.
- 3. Appropriate \$58,000 from 509PWC8541, Citywide Bicycle and Pedestrian Projects to 509PWC 8704, Irvington Area Pedestrian Improvements as the City's local match.

*2.7 AUTHORIZATION TO PURCHASE PORTABLE RADIOS

Authorization to Purchase Portable Radios in the amount of \$420,899.82 as Part of an Assistance to Firefighters Grant and the Citywide Communication Upgrade Project

Contact Person:

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Dept.: Fire Fire

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Executive Summary: Staff seeks City Council approval to purchase 120 portable radios in the amount of \$420,899.82, which exceeds the City Manager's administrative authority of \$100,000. In March 2009, City Council approved Fremont Fire Department participation with several other regional fire departments in a successful Assistance to Firefighters Grant (AFG) application from the Department of Homeland Security to purchase sixty portable radios. Grantees were able to secure best-in-the-nation pricing for the radios by using an existing competitively-bid contract, which is allowable under the City's purchasing ordinance. Because of the very favorable pricing, staff proposes to purchase sixty additional portable radios for the Fire Department. All equipment purchases are budgeted in the FY 2008/09 Capital Improvement Program (CIP) Budget.

BACKGROUND: Earlier this year, the Fremont Fire Department joined with the five other member agencies of the dispatch center consortium, the Alameda County Regional Emergency Communications Center (ACRECC), in an AFG grant application for the purchase of Fire Department portable radios. City of Fremont participation in the grant allowed City communications to be in line with the latest technology, be compatible with current and future radio systems, and provide interoperability with our regional partners, as well as leverage City funds and increase City purchasing power for other projects under consideration.

At the March 24, 2009 City Council meeting, City Council approved acceptance of the grant, appropriation of grant funds, and execution of a Memorandum of Understanding (MOU) with the grant partners to ensure City compliance with grant requirements. Accordingly, the City appropriated a grant budget totaling \$206,051.14, including \$164,840.92 in federal funding plus \$41,210.22 in City funding for the 20% matching requirement. Now that a vender is identified and pricing has been finalized, staff is returning to City Council for purchase approval.

By using an existing competitively-bid contract by the County of Alameda, the grantees were able to secure best-available pricing for the digital Motorola XTS5000 portable radio, the same radio that the City specified for purchase in the Citywide Communication Upgrade Project (SP180) for Fire, Police and Maintenance. The pricing also reflects extra discounting, which decreased the cost of each unit by an additional \$400, making the final cost of the radios lower than any other contract in the nation. Because of these very favorable circumstances, staff proposes to purchase sixty additional radios that are likewise proposed for purchase in this year's CIP budget under the Citywide Communication Upgrade Project.

The total cost for 120 portable radios is \$420,899.82. This amount, however, would be offset by \$164,840.92 in grant funding, including approximately \$9,600 for installation, for a net total cost to the City of \$256,058.90. Funding for the radios is available in the Citywide Communication Upgrade Project budget, while installation and other extraneous expenses would be covered in the Fire Department operating budget. Purchase of all 120 radios would complete Fire Department needs for portable radios under the Upgrade Project.

DISCUSSION/ANALYSIS: City Purchasing Code Section 2-9702 allows the City to use the contract of another public agency for purchases of more than \$100,000 if the City can demonstrate three things:

- (1) The terms extended to the City under the contract are materially the same as the existing contract and another public agency.
 - The City of Fremont will use the exact same contract and pricing schedule as that offered to the County of Alameda by Motorola for making the purchase. In fact, the purchase will actually be made by the County, and the City will simply reimburse the County.
- (2) The terms of the new contract are more beneficial to the City than it would have been able to obtain if it had followed the normal Request for Proposals (RFP) process, including documenting steps taken to evaluate alternative sources.
 - Because of volume discounting, the County was able to secure best-available pricing for the digital Motorola XTS5000 portable radio, including a special discount of \$400 per unit, making the final cost of the radios lower than any other contract in the nation on a per unit basis. The Director of Information Technology Services estimates that if the City purchased all 120 portable radios under typical pricing, the cost to the City would be approximately \$659,000. By accepting the grant funds and taking advantage of the exceptional pricing, the City stands to save approximately \$393,000.
- (3) By entering into the proposed contract, the City will meet the purpose and goals of the City's established purchasing ordinance, including documentation of the process used by the other public agency.
 - Staff reviewed the stated objectives of the Alameda County purchasing process and determined that in broad terms they agree with the City's purchasing goals for using existing contracts by: (1) obtaining a cost-effective result for the City; (2) reviewing other contracting options available; (3) using an established RFP process that follows standard government purchasing regulations to ensure a fair and transparent process; and (4) saving staff time and reducing administrative costs by taking advantage of the existing County contract.

Moreover, the City would not have fared better if it had followed its own purchasing procedure in that the procurement process the County followed under its adopted rules and regulations either met or exceeded the City's purchasing process. According to an agenda report dated October 11, 2005 and signed by the County Sheriff and Director of the General Services Agency, the County process was extensive. The process included a Request for Information which was posted for 15 days on the County website, as well as a Request for Proposal which was mailed to

18 responding vendors, posted on the County website for 30 days and advertised in 15 local and ethnic newspapers. Nine walk-through/site visits were also conducted, as well as two networking/bidders conferences.

FINANCIAL IMPACT: The total cost for 120 portable radios is \$420,899.82. This amount is offset by \$164,840.92 in grant funding, for a total net cost to the City of \$256,058.90. Funding for the radio equipment is available in the adopted CIP Budget for FY 2008/09 under the Citywide Communications Upgrade Project (SP180), while additional expenses of approximately \$9,600 for installation, etc., will be absorbed in the Fire Department operating budget.

ENVIRONMENTAL REVIEW: None

ENCLOSURE: None

RECOMMENDATION: Authorize the City Manager or designee to purchase 120 portable radios in the amount of \$420,899.82 by using an existing competitively-bid contract through the Alameda County Fire Department as part of the Assistance to Firefighters Grant and the Citywide Communication Upgrade Project.

*2.8 PUBLIC HEARING (PUBLISHED NOTICE) TO AMEND THE CITY OF FREMONT MASTER FEE RESOLUTION TO UPDATE CERTAIN RECREATION SERVICES DIVISION FACILITY USE AND SERVICE FEES

Continued Public Hearing (Published Notice) to Consider Recreation Commission Referral - Amendment to City of Fremont Master Fee Resolution to Update Certain Recreation Services Division Facility Use and Service Fees(continued from 6/2/09)

Contact Person:

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Executive Summary: This item is before the City Council to consider amending the City of Fremont Master Fee Resolution to update existing rental fees at Community Centers and youth sports fields, and

to incorporate the Lions picnic area and Kennedy picnic area into reservable picnic sites using current established fees.

BACKGROUND: On May 22, 2007, the City Council adopted Resolution 2007-34 updating Master Fee Resolution 8672, which established user fees for Recreation Services Division services and activities. Staff requests that the Council amend the Master Fee Resolution to update existing fees for Community Center rentals and youth sports field rentals including creating a youth partner category. Further, staff requests that the Council incorporate the Lions Picnic area and Kennedy Picnic area into the current facility reservation system under current user fees to accommodate increased customer demand.

DISCUSSION/ANALYSIS: Pursuant to Government Code 50402, the City is authorized to establish fees for use of park facilities and services so long as the fees do not exceed the cost of providing such services. The Recreation Services Division strives for cost recovery in its programs balanced with offering reasonable rates that are in line with other local institutions.

In December 1999, following the first complete review of existing use fees for Recreation Division facility use and services in 13 years, staff recognized the need to review fees more frequently and recommend incremental fee adjustments in order to maintain its cost recovery and market viability goals. Recreation Services Division staff has since reviewed fees each year since 2001. As a result of each such review, staff has recommended updating fees where market and other economic conditions support such actions, as well as recommending new fee categories as new facilities come on line.

In 2009, staff completed a thorough review of current facility use, program costs, and recreation service fees and determined that certain fees for the use of community centers and sports fields are in need of updating. Further, an opportunity to incorporate two existing picnic areas in Central Park into the current facility reservation system in response to increased customer demand has emerged. A discussion of the recommended fee revisions follows.

Community Center and gymnasium rental fees: Community center rental fees were last revised in 2007. Staff has consistently maintained community center fees in the upper third of the market for comparable facilities. Demand for these facilities remains strong.

However, in reviewing community center rental fees, staff recognized that fees for use of community centers by commercial groups had fallen considerably behind the market, in some cases as much as 33% while City costs have increased. As a result, in some cases it is less costly for a commercial group to rent a facility than a Fremont private resident. Staff recommendations are aimed at addressing this inequity as well as at recovering staff costs.

The gymnasium at Wally Pond/Irvington Community Center has been identified by staff as the one facility where fees have fallen considerably behind the mid-point of the market while demand for indoor athletic space has grown. At the same time, the Fremont Unified School District has become more active in the indoor athletic facility market. While their gymnasium rental fees are positioned at nearly double the City's fees for comparable space, the relatively limited availability for indoor athletic space in the community makes them a significant competitor in the market. While staff does not propose fee increases that would approach the School District's fees, it is clear that increases are justified based upon increased City operating costs and market demand. Staff has carefully considered the recommended increases in comparison to the School District in order to remain a viable yet lower cost alternative for the community while recovering program costs.

Youth sports field rental fees: Community youth sports organizations have been assessed an annual per-player fee for regularly scheduled use of the City's athletic fields since 1985. Fees were established in order to recover the costs associated with managing the scheduling system that allots field space from season to season while keeping the costs to youth sports organizations affordable. Participation in the various organized community youth sports programs has grown as the City's population has grown, both in numbers and diversity. Facility demand has grown accordingly, scheduling has become more complex and costs have risen over the course of 20+ years while per-player fees remained unchanged until 2006.

In 2006, staff conducted three community meetings with youth sports organizations in order to address the need to revise per-player fees and apply an incremental approach to updating fees. As a follow up to these meetings, staff and representatives from FC Fremont Soccer, Fremont Football, Fremont Girls Softball Association, Fremont Baseball, Incorporated, Fremont Babe Ruth Baseball, Warm Springs Little League and Fremont National Youth Baseball arrived at final consensus on the 2006 recommended revised per-player fees and the need to continue incrementally adjusting these fees every other year. Staff is now recommending that incremental increase, effective July 1, 2009.

The per-player fee increase will apply to all youth sports organizations that use the fields except those in the new "Youth Partner" category. This category is being created for organizations that have made significant contributions to City facilities and/or City programs during the preceding two-year fee cycle. The Parks and Recreation department director will certify organizations as Youth Partners when their contributions during the previous two-year fee cycle have a value that exceeds the estimated total of the proposed per-player fee increase for that organization during the next two-year fee cycle. The per-player fees for organizations that are designated as Youth Partners will remain at the fee amount in effect during the previous fee-cycle. Two youth sports organizations, FC Fremont Soccer and Fremont

Football, have made significant contributions to the City's field facilities during the last fee cycle in value that exceeds the estimated total of the fee increase for that organization during the new fee cycle.

Central Park picnic area fees: Central Park's Kennedy picnic area and Lions picnic area currently do not accommodate reserved use and are managed as non-reservable, drop-in picnic areas. Their proximity to parking and prime central locations near Lake Elizabeth make them two of the busiest, most desirable sites in Central Park. Not surprisingly, there has been and continues to be considerable customer demand to reserve these areas, similar to the customer demand that prompted staff to recommend the creation of a number of reservable small picnic areas in Central Park in 2006.

The Lions picnic area was created many years ago and named after the Fremont Lions Club, which funded a portion of the amenity. While the club no longer exists, staff has conferred with a former club leader who is familiar with the project and recalls no constraints from the original project funding that would preclude incorporating the site into the current reservation system, and the City has no record of such a constraint.

Based on the increased customer demand for service, staff is recommending incorporating both the Lions picnic area and the Kennedy picnic area into the City's current picnic reservation system. The direct impact of the popularity of these sites has increased staff time in order to properly maintain each area as well as manage site specific conflicts. Not only will customer service improve by converting these picnic areas to reservable sites, but the fees collected from reservations will allow for recouping of costs resulting from the increased usage. The fees for these sites will be the same as for existing similar-sized picnic areas.

To ensure access to picnic tables from drop-in customers, twenty-eight (28) percent of all picnic tables in Central Park will still be set aside for drop-in (non) reservation customers only. In addition, all other picnic tables located in Central Park are available for drop-in (non) reservation customers on a first come - first serve basis unless otherwise reserved by the public. These sites are historically reserved 60% of the time during the peak season.

Research process and market analysis: As previously noted, the City is required to set user fees and fees for service that do not exceed the reasonable cost of providing the service. The Recreation enterprise model attempts to recover a portion of the actual cost of providing recreation services. The City's General Fund provides limited non-fee based support for administration and operation of recreation program offerings. Additionally, the City provides non-user-fee-based funding for acquisition, development, and maintenance of facilities. Thus, the fees recommended for updating are collected to recover in part the costs of administering the recreational facilities reservation and rental program. As in all previous fee reviews, staff research and methodology has been directed at meeting three critical interests while ensuring fees do not exceed the cost to provide service. The *first* interest is to ensure that fees are consistent with the external local market for similar services and consistent with *internal* pricing for like facilities. A *second* interest is to ensure that customer demand for service is met without creating additional impact on City resources. The *third* interest is ensuring that pricing is consistent with the City's enterprise approach to doing business. These three interests were addressed as follows in the 2009 fee review:

- 1) *Market consistency*: In achieving internal and external market consistency, staff ensures that updated and new fees maintain a comparable position in the *external* market for similar facilities and services and are *internally* consistent with fees for similar City facilities/services. In order to determine *external* market consistency, community center and gymnasium rental fee information was gathered from various regional school districts, cities, and other public and private agencies.
- 2) *Impact on City resources*: The proposed revised fees create no new impacts on existing City resources as they do not change the current level of service. New fee categories will create little or no new impacts since all facilities will be reserved through existing facility reservation systems and processes. Both updated and new fees ensure that the customer will continue to bear a share of the costs of providing service, while not exceeding the City's cost to provide the service.
- 3) Business model/cost recovery: A third interest is ensuring that recommended fees are consistent with the City's enterprise-based approach to doing business by recovering, but not exceeding, the actual costs for providing service.

Recommended fees for the Irvington Community Center Gymnasium are aimed at meeting this interest by adjusting them to remain in the upper third of the market to ensure cost recovery, affordability and room to grow incrementally in subsequent years.

Incorporating Lions and Kennedy picnic areas into the existing facility reservation system ensures that costs associated with meeting customer demand for providing the service are borne by the customer.

Recommended fee increases for youth sports leagues facility use is aimed at recovering increasing costs for service through the incremental approach that has characterized the Recreation Division's business model while recognizing the significant contributions to improving City facilities provided by organizations that qualify as "Youth Partners."

Recreation Commission Action: At the May 6, 2009 Recreation Commission Meeting, the following items were voted on and approved:

- 1. With a 6-0 vote, the Recreation Commission recommended to the City Council to amend the Master Fee Resolution to update existing fees for community center and gymnasium rentals. Revised fees would become effective July 1, 2009.
- 2. With a 6-0 vote, the Recreation Commission recommended to the City Council to incorporate the Lions picnic area and Kennedy picnic area into the current facility reservation system under current user fees, effective July 1, 2009.
- 3. With a 5-1 vote, the Recreation Commission recommended to the City Council to amend the Master Fee Resolution to update existing fees for youth sports field rentals, with exceptions for FC Fremont and Fremont Football, effective July 1, 2009.

Summary: Staff requests that the City Council amend the Master Fee Schedule to update existing fees for community center rentals and youth sports field rentals, including creating the "Youth Partner" category. Further, staff requests that the City Council incorporate the Lions picnic area and Kennedy

picnic area into the current facility reservation system under current user fees in response to increased customer demand. Revised fees would become effective July 1, 2009.

FISCAL IMPACT: N/A

ENVIRONMENTAL REVIEW: N/A

ENCLOSURES:

- Draft Resolution
- <u>Updated Fee Schedule for Recreation Services Fees (changes and additions shown in bold with strike-out of old fees when appropriate)</u>
- 2009 Picnic Rental and Facility Fee Survey

RECOMMENDATION: That the City Council adopt a resolution amending the Master Fee Resolution to update existing fees for community center rentals, youth sports field rentals, and creating a Youth Partner fee category for youth sports field rentals. In addition, staff recommends City Council approve incorporating the Lions picnic area and Kennedy picnic area into the current facility reservation system, effective July 1, 2009.

*2.9 HUMAN SERVICES DEPARTMENT FEE SCHEDULE UPDATE

Public Hearing (Published Notice) to Consider Increases and Modifications to Human Services Department Fees for Youth and Family Services, Aging and Family Services, Paratransit Services, and Family Resource Center Services

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Title: Deputy Director Director

Dept.: Human Services Human Services Phone: 510-574-2056 510-574-2051

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Executive Summary: The purpose of this report is to recommend increases and changes to counseling, case management, and paratransit fees charged by the Human Services Department. These changes are necessary to keep pace with the rising costs of providing services, and also to maximize the amount of reimbursement from Medi-Cal for eligible services.

BACKGROUND: As part of an ongoing strategy to maintain services, the Human Services Department has become a provider for various Medi-Cal funding streams. Youth and Family Services (YFS) is an approved service provider under the Early Periodic Screening Diagnosis and Treatment (EPSDT) funding stream, which provides reimbursement for medically necessary counseling services to Medi-Cal eligible children. The Fremont Family Resource Center (FRC) and the Aging and Family Services (AFS) divisions are approved service providers under the Targeted Case Management (TCM) program. TCM allows the Department to claim reimbursement for case management services provided to Medi-Cal eligible clients, thereby offsetting General Fund costs.

For many years, the City of Fremont has operated a paratransit program that supplements and complements the services provided by East Bay Paratransit. The City's Paratransit Program, which is funded by Measure B, the county-wide half-cent transportation sales tax, provides door-to-door transportation and group trip services to eligible Fremont residents. The City charges individuals a fee for these services on a per one-way-trip basis.

DISCUSSION/ANALYSIS:

Youth and Family Services Counseling Fees: YFS is reimbursed by the EPSDT funding stream for medically necessary counseling services it provides to Medi-Cal eligible children. Under EPSDT, the maximum reimbursement rates for different types of counseling services are established by the State of California, and are known as the Short-Doyle Medi-Cal State Maximum Allowance (Short-Doyle). The Human Services Department can claim reimbursement at the Short-Doyle rates or for actual costs of providing service, whichever is less, as long as the rates are incorporated into a general fee schedule that applies to all clients. Based on analysis conducted by staff, the Short-Doyle rates are less than actual costs to the City to provide counseling services (including overhead and infrastructure). Therefore, establishing Short-Doyle as the full fee for counseling services, at the highest rate possible, enables the program to recover the maximum reimbursement allowed.

Staff has developed a sliding fee scale that incorporates the Short-Doyle rates for each type of service reimbursable under EPSDT. The sliding scale uses the Short-Doyle rates as the maximum rates, and sets lower rates at lower income levels. This ensures that the City can recover the greatest amount of Medi-Cal reimbursement allowed, while ensuring that low and moderate-income families can still afford services at below market rates. The fee for families at area median income has been set to be comparable with other agencies offering individual and family counseling, which range from \$75.00 to \$120.00 for private practices. The maximum rate of \$135.00 under Short-Doyle is slightly higher than the marketplace, because it acknowledges that families served under EPSDT require additional collateral work such as consultation with schools, the County Probation Department, and other social service agencies.

HUD	% of Median		% of	Proposed Per Session Rate (06/08)			
Income Level	Incor		Fee	Mental Health	Case Management	Crisis	Group Therapy
Extremely Low	0 -	30%	7%	\$10	\$8	\$15	\$3
-	31% -	40%	11%	\$15	\$12	\$22	\$4
Low	41% -	50%	15%	\$20	\$16	\$30	\$6
	51% -	55%	19%	\$25	\$19	\$37	\$7
	56% -	60%	22%	\$30	\$23	\$45	\$9
	61% -	65%	26%	\$35	\$27	\$52	\$10
	66% -	70%	33%	\$45	\$35	\$66	\$13
	71% -	75%	41%	\$55	\$43	\$82	\$16
Moderate	76% -	80%	44%	\$60	\$46	\$89	\$18
	81% -	85%	48%	\$65	\$50	\$96	\$19
	86% -	90%	52%	\$70	\$55	\$105	\$21
	91% -	95%	56%	\$75	\$59	\$112	\$22
Area Median	96% -	100%	59%	\$80	\$62	\$119	\$24
	101% -	105%	63%	\$85	\$66	\$127	\$25
	106% -	110%	67%	\$90	\$70	\$135	\$27
	111% -	115%	70%	\$95	\$74	\$141	\$28
	116% -	120%	74%	\$100	\$78	\$149	\$30
	121% -	125%	78%	\$105	\$82	\$157	\$31
	126% -	130%	81%	\$110	\$85	\$163	\$33
	131% -	135%	85%	\$115	\$89	\$171	\$34
	136% -	140%	89%	\$120	\$93	\$179	\$36
	141% -	145%	93%	\$125	\$97	\$186	\$37
Full Fee/Short Doyle	146% -	up	100%	\$135	\$105	\$201	\$40

Special Conditions: Youth and Family Services contracts with the Alameda County Probation Department to serve status offenders, youth on probation, and first-time criminal offenders referred by the Fremont Police Department. Clients meeting these criteria will be seen for the number of sessions specified in the contract without charge and will then be charged regular fees.

- 1. The maximum group session fee may vary from the examples shown above based on duration of the group, number of participants enrolled and the number of staff leading the group, to ensure that fees charged do not exceed the Short-Doyle rates.
- 2. Fees may be waived under special circumstances, which include, but are not limited to, the following:

- a. Emergency sessions.
- b. Payment of the fee would cause financial hardship to the client.
- c. Self-referred youth who is the only family member involved in counseling when the parents refuse to pay.

FRC and AFS Case Management Fees: The Human Services Department's Fremont Family Resource Center (FRC) and the Aging and Family Services (AFS) divisions are approved service providers under the Targeted Case Management (TCM) program. TCM allows the Department to claim reimbursement for face-to-face case management services provided to Medi-Cal eligible clients. The State's formula for determining the reimbursement rate first calculates the actual cost to the City of providing services, based on an annual cost study, then adjusts rates downward to account for any federal and State funds already provided to the City to support these services. The actual amount the City receives from the State is 48% of the billable rate.

The State TCM billable rate per encounter is currently \$235 for FRC family case management, and \$452 for AFS senior case management. Senior case management is a more expensive model of service because it involves serving seniors in their homes, which is much more time intensive per encounter. Both rates include the cost of City overhead and infrastructure related to case management services. As a condition of receiving reimbursement under this program, the City must establish a general fee schedule for all case management services. This fee schedule must be applied to all clients, regardless of whether they receive Medi-Cal benefits.

Staff has developed a sliding fee schedule that uses the State TCM billable reimbursement rate per encounter as the maximum rate and sets lower rates at lower income levels. This maximizes the amount of TCM reimbursement, while ensuring that low and moderate-income families who are not enrolled in Medi-Cal can still afford services. The sliding scale also provides that families at median income pay less than the maximum rate. It should also be noted that because of the nature of case management services, the vast majority of clients fall in the low and moderate-income categories.

Family Case Management Fee Schedule:

HUD	Percent of	Percent	Per Encounter
Income Level	Median Income	of Fee	Rate
Extremely Low	0 - 39%	3%	\$7
Low	40 - 59%	5%	\$12
	60 - 69%	10%	\$24
Moderate	70 - 89%	15%	\$35
Area Median	90 - 109%	20%	\$47
	110 - 129%	30%	\$71
	130 - 139%	40%	\$94
	140 - 159%	50%	\$118
	160 - 179%	60%	\$141
	180 - 189%	70%	\$165
	190 - 199%	80%	\$188
	200% - and above	100%	\$235

Special Conditions for Family Case Management: Fees paid by clients for family case management may be waived if one of the following applies:

- 1. Payment of the fee would cause financial hardship to the client.
- 2. Client would refuse necessary services if assessed a fee, which would likely result in higher cost interventions.

Senior Case Management Fee Schedule:

HUD	Percent of		Percent of	Per Encounter	
Income Level	Median Income		Fee	Rate	
Extremely Low	0	-	39%	3%	\$14
Low	40	-	59%	5%	\$23
	60	-	69%	10%	\$45
Moderate	70	-	89%	15%	\$68
Area Median	90	-	109%	20%	\$90
	110	-	129%	30%	\$136
	130	-	139%	40%	\$181
	140	-	159%	50%	\$226
	160	-	179%	60%	\$271
	180	-	189%	70%	\$316
	190	-	199%	80%	\$362
	200%	-	and above	100%	\$452

Special Conditions for Senior Case Management: Fees for senior case management may be waived if one of the following applies:

- 1. Payment of the fee would cause financial hardship to the client.
- 2. Client would refuse necessary services if assessed a fee, which would likely result in higher cost interventions.

Paratransit Service Fees for the Elderly and Disabled: The City's Paratransit Program provides door-to-door transportation and group trip services to eligible Fremont residents. Door-to-door, shared ride transportation is provided to Fremont residents who are unable to access public transportation independently due to a medical or disabling health condition and to Fremont seniors 80 years of age and older, regardless of disability status. Transportation is provided in sedans or lift-equipped vans to and from destinations in Fremont, Newark and Union City. The Group trip service provides social and recreational outings for seniors and individuals with disabilities. Group trip services are available to organizations that are based in Fremont (or have satellite operations in Fremont), such as housing complexes, skilled nursing facilities, social clubs, or other community groups that serve persons with disabilities and/or seniors.

The County is projecting a 13% reduction in Measure B revenues for both the current FY 2008/09 and the coming FY 2009/10. Given these significant reductions, fees for the door-to-door and group trip services will be increased by one dollar in order to partially offset these revenue reductions and increased costs of delivering paratransit services. The new fee schedule is as follows:

Paratransit Service	<u>Fee</u>
Door-to-Door Transportation (per individual, per one-way trip)	\$3.00
Group Transportation (per individual, per one-way trip)	\$2.00

FISCAL IMPACT: The TCM and EPSDT fee schedules outlined in this report allow the department to claim the maximum allowable reimbursement for services provided to Medi-Cal eligible clients, thus offsetting General Fund costs. The paratransit fee schedule will assist the City to partially offset declining revenues and increased costs of delivering services.

ENCLOSURES:

- Draft Resolution
- Exhibit A Updated Fee Schedules for Youth and Family Services Counseling Fees
- Exhibit B Updated Fee Schedule for Family Resource Center Family Case Management
- Exhibit C Updated Fee Schedule for Aging and Family Services Senior Case Management
- Exhibit D Updated Fee Schedule for Paratransit Services

RECOMMENDATION: Hold a public hearing and adopt a resolution to amend the Master Fee Schedule to update Youth and Family Services counseling fees, Family Resource Center family case management fees, Aging and Family Services (AFS) senior case management fees, and paratransit fees as recommended above.

*2.10 FREMONT LANDSCAPING ASSESSMENT DISTRICT 88

Public Hearing (Published and Posted Notice) to Conduct a Public Hearing on the Levy of Annual Assessments for Landscaping Assessment District 88; Adoption of a Resolution Confirming Diagrams and Assessments for District 88 for Fiscal Year 2009/10

Contact Person:

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Executive Summary: Staff recommends that the Council conduct a public hearing to levy the annual assessment for Landscaping Assessment District 88. Each year, the City levies annual assessments within Landscaping Assessment District 88 for public landscape maintenance. This District presently consists of forty-seven zones (forty-five of which are active), which are made up of subdivision tracts that were approved by the City without homeowners' associations to provide maintenance of public landscaped areas in or adjacent to the tracts. Inclusion of these subdivisions in this Landscape Assessment District covers public landscape areas in and around the subdivisions. The Council began the annual assessment process on April 14, 2009, when it adopted resolutions ordering and approving an Engineer's Report detailing calculations of the annual assessments, declaring an intent to levy and collect the assessments and setting a public hearing on this date.

BACKGROUND: The City Council formed Fremont Landscaping Assessment District 88 in December 1988. This is a Citywide district, and allows the creation of landscape maintenance zones as a condition of approval of individual subdivision maps to ensure ongoing maintenance of public landscaping improvements that are in or adjacent to the subdivisions and that complement their appearance. Each year the City establishes the amount of money needed to maintain the public landscaping for each zone and levies an assessment on each lot in the zone sufficient to pay this amount. Formation of new zones (which begin as separate landscape assessment districts) and annexing them into the citywide District 88 is required when a developer does not form a homeowner's association to maintain public landscaping required as a condition of tract approval. There are no new zones to be formed and annexed into District 88 this year.

Levies of ongoing annual assessments are governed by the Landscaping and Lighting Act of 1972. This Act allows the City to levy and collect assessments for the purpose of funding installation, maintenance, and servicing public landscaping and lighting improvements. The amount of the assessment levied on each parcel of land is based on the special benefit the parcel receives from the improvements. The County collects the assessment with property taxes and transfers the funds to the City.

In addition to the requirements of the Landscaping and Lighting Act of 1972, the City must comply with the requirements of Proposition 218, which was adopted by the voters in November of 1996. Generally, Proposition 218 and its implementing legislation allow property owners to defeat, by majority protest, increases beyond previously established maximum assessments for any zone within the District or the formation of any new assessment district or zone. There are presently forty-seven zones in District 88,

forty-five of which are active. On June 24, 1997, the property owners in the District's then existing Zones 1 through 37 (with the exception of Zones 18 and 22) allowed maximum assessments to be levied. In subsequent years, property owners allowed the formation of Zones 38 through 47 and the levy of maximum assessments for them. These newer zones have been annexed into District 88. Thus, District 88 includes Zones 1 through 17, 19 through 21, and 23 through 47 (and does not include former Zones 18 and 22, for which property owners established majority protests in 1997). Zone 45 (Tract 7471) and Zone 47 (Tract 7442) were formed and annexed into the district in previous years. The improvements have been installed and accepted by the City. This year will be the first time properties within these zones will be assessed. The maximum assessments for each zone and the amount of the proposed levy for the coming fiscal year, are shown in the Engineer's Report, Exhibit A. All proposed assessments are below the maximum assessment amounts approved on or after June 24, 1997.

DISCUSSION:

Hearing for Levy of Annual Assessments for Existing Zones in District 88: In this hearing, the City Council must consider public comments regarding the proposed levy of ongoing assessments. Written protests must be accepted up to the conclusion of the hearing. Because assessments are not proposed to be increased beyond the maximums established on or after June 24, 1997, a majority protest cannot defeat the proposed assessment. Notice of this public hearing was given by publication.

Engineer's Report: Each year since the inception of the Landscaping Assessment District, staff has prepared an Engineer's Report and submitted it to the City Council. The City Engineer has prepared the report for fiscal year 2009/10. The Engineer's Report lists for each zone the expected costs (including a reasonable contingency) for the new fiscal year and a carryover cost, i.e., sufficient funds to pay the first six months of maintenance cost because assessments are not collected by the County until property tax bills become due. The assessment also includes the City's and the County's administrative costs in imposing the assessment. The total of these cost items is the gross assessment. A credit is then applied to each zone, which consists of the projected zone balance as of the end of the current fiscal year less a reserve fund. The gross assessment less the credit for each zone is divided among its property owners to establish the annual net assessment for each property.

The reserve fund formula is intended to "smooth" out large increases or decreases in the annual assessments. Use of the reserve fund normally allows decreases in assessments to be limited to 10% and increases limited to 20%. Forty-one zones will be assessed in fiscal year 2009/10. Eighteen zones will have the same assessments as fiscal year 2008/09, two zones will be assessed for the first time, twelve zones will have decreased assessments, and nine zones will have increased assessments. Of the nine zones with increased assessments, three zones exceed the 20% goal. In these zones the reserve fund was not sufficient to offset unanticipated maintenance and water costs resulting from vandalism and theft. Several zones were victim to theft of irrigation components due to higher commodity prices for brass and copper. The proposed increased assessments are still lower than the maximum annual assessments approved on or after June 24, 1997.

The annual assessments per lot differ considerably among the zones because of differing size and character of landscaped areas and the number of lots in each zone. In previous years, the City Council took special action on Zone 2 (nine lots in Tract 5847), Zone 6 (eight lots in Tract 5950), Zone 12 (nine lots in Tract 5558), and Zone 16 (seven lots in Tract 6121) to allow the homeowners in these zones to

take responsibility for the landscape maintenance themselves. Council action was not to assess these zones as long as the homeowners properly maintained the landscaping. The homeowners in these four zones are maintaining the landscaping in a satisfactory manner.

Pages 34 through 36 of the Engineer's Report list the previous and proposed assessments for the existing zones.

ENCLOSURES:

- Exhibit A Engineer's Report for Fremont Landscaping Assessment District 88, Zones 1 through 47 (excluding Zones 18 and 22)
- Exhibit B A Resolution of the City Council of the City of Fremont Confirming Diagrams and Assessments for Fiscal Year 2009/2010 for Fremont Landscaping Assessment District 88 Zones 1-17, 19-21 and 23-47

RECOMMENDATIONS:

- 1. Open public hearing for Levy of Annual Assessment for Existing Zones in District 88.
- 2. Consider all oral statements and written protests.
- 3. Close public hearing.
- 4. Levy the proposed assessment by adopting a resolution confirming Diagrams and Assessments for Fiscal Year 2009/2010 for Fremont Landscaping Assessment District 88 Zones 1-17, 19-21 and 23-47 (Exhibit B).

5.1 SECOND PUBLIC HEARING AND ADOPTION OF FISCAL YEAR 2009/10 OPERATING BUDGET AND APPROPRIATIONS LIMIT

Second Public Hearing (Published Notice, Hearing Continued from June 2, 2009) and Adoption of Fiscal Year 2009/10 Operating Budget and Appropriations Limit, and Revision to Reserve Policies

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Executive Summary: The proposed operating budget identifies total appropriations, including all funds, for Fiscal Year 2009/10 in the amount of \$232,375,000. The General Fund portion of the total is \$135,667,000. The appropriations limit (also known as the Gann Limit, and which applies only to the General Fund) for FY 2009/10 is \$498,945,662. This report provides an overview of the FY 2009/10 operating budget and describes the methodology for calculating the appropriations limit. The first public hearing on the budget was held on June 2, 2009. Staff recommends that the City Council hold the second public hearing and adopt resolutions approving the operating budget and the appropriations limit for FY 2009/10, and approving a revision to the reserve policies.

BACKGROUND: Staff presented the proposed FY 2009/10 operating budget to the City Council during a televised City Council work session on May 26, 2009. The City Council held a public hearing on the proposed budget on June 2, 2009. The budget identifies total appropriations, including all funds, for Fiscal Year 2009/10 in the amount of \$232,375,000. The General Fund portion of the total is \$135,667,000. The "Discussion of the FY 2009/10 Operating Budget" section below provides an overview of the FY 2009/10 operating budget.

In addition, staff has calculated the appropriations limit, in accordance with Article XIIIB of the California State Constitution, commonly referred to as the Gann Limit. Using information on population and per capita personal income growth from the State Department of Finance, as well as information on new, non-residential construction assessed valuation from the County of Alameda, the appropriations limit for FY 2009/10 is calculated to be \$498,945,662. Based on the proposed General Fund operating budget of \$135,667,000, the City is not at risk of exceeding the appropriations limit. The "Discussion of the FY 2009/10 Appropriations Limit" section below describes the methodology for calculating the appropriations limit.

DISCUSSION OF THE FY 2009/10 OPERATING BUDGET: The following information is from the Budget Overview section of the proposed budget document. It sets the context for the proposed budget by describing the impact of the State's financial condition, the operational impacts to the community and challenges of reduced staffing the City will address, and the major initiatives underway. It also summarizes the budget strategies proposed for FY 2009/10.

These are unsettling times for the City of Fremont. The prolonged and unusually deep recession gripping the country has reduced both our current revenues and our projected revenues dramatically. Our sales taxes and property transfer taxes have seen significant drops over the past two years, reflecting the sharp downturn in the housing market and the fallout of the sub-prime mortgage crisis. We must reduce spending now to resize the organization to a level at which our expenditures will not exceed our reduced revenues.

The sub-prime mortgage crisis and housing market collapse discussed in last year's budget document triggered an economic plunge at both a national and a global level. Virtually every major industry has suffered loss and the broadest measure of productivity in the United States, gross domestic product, contracted at over 6% in both the fourth quarter of 2008 and the first quarter of 2009. Such shrinkage in gross domestic product has not occurred since the late 1970s. As it often does, California led the way into this economic abyss. Many of California's most promising industries suffered bruising business reversals, its home values fell at among the highest rates in the nation, and its unemployment rate has surged to almost 11%. These grim economic shocks have rocked the local economy and, not unexpectedly, they are affecting the City's budget.

Declines in construction and consumer spending have yet again thwarted the State of California's attempt to fashion a sustainable business model. The State is facing yet another budget shortfall due to fundamental problems with the State's budget system. The likelihood of the State at least attempting to raid local coffers to solve its inabilities to balance its own budget is high. Like many cities in California, Fremont continues to face a volatile and uncertain economic future and remains cautious because of concerns about economic performance and the possibility of more State takeaways of local revenue. Economists at Beacon Economics have characterized the national financial situation as a deep recession, but not a depression. They expect economic recovery to occur in early to mid-2010 – except that recovery in housing will be delayed until 2012 because of the amount of inventory currently on the market. According to the UCLA Anderson Forecast, "2009 is still rather gloomy for the East Bay economy, with the expectation of turnaround at year's end." These economic forecasts do not bode well for the revenues of California governments.

City finances, and the community services that depend on those resources, have been severely strained because of years of State takeaways of traditionally local revenues. This is compounded by a serious recession in the early years of this decade and an even more severe recession now. The revenue takeaways started in the early 1990s with ongoing shifts of local property taxes to the Education Revenue Augmentation Fund (ERAF). Since then, Fremont has lost over \$144 million to ERAF, and this amount continues to grow by roughly \$13.7 million a year. These losses are partially offset by increased Proposition 172 sales tax and COPS funding for law enforcement, resulting in a net annual loss for Fremont of \$12 million and a net cumulative loss for Fremont of \$121.7 million.

The City met previous difficult times by reducing spending throughout the organization and by focusing on attracting and retaining retail businesses to increase revenue. Staff has been vigilant and disciplined over the past several years to not increase the workforce (other than for critical public safety needs) and to keep staffing levels lean. Because we were proactive, the City can now face yet another economic downturn and the prospect of still more State takeaways with effective options, rather than being forced to merely react. In December 2007, we began a belt-tightening strategy that will help soften the impact of the further reductions we must now make. A dollar saved today is one we won't have to cut in the

future, and the organization has taken that to heart. Even so, some very difficult cuts and service reductions are necessary in order to make sure we can live within our means.

Total budgeted resources in the coming fiscal year will be adequate to support total budgeted expenditures of \$136 million, so the budget is considered to be balanced. The FY 2009/10 budget also maintains the City Council's long-standing funding priorities by allocating over three-quarters of the budget to direct costs for public safety and maintenance. The share of General Fund resources budgeted for these purposes is actually 90% when overhead costs required to support these functions are allocated. Although we are continuing to fund some of the much-needed public safety staffing added in FY 2007/08, the FY 2009/10 budget continues most of the service reductions implemented since FY 2002/03. In order to make sure we can live within our means, sustainable reductions throughout the organization are included in the proposed budget, consisting of 5% reductions for public safety, 10% reductions for other departments, and a 20% reduction of the fee-based expenditures in the Community Development Cost Center because of the significant decline in permit activity. In addition, the strategies adopted in December 2007 – a 1% General Fund savings target and not filling many staff vacancies – will become permanent reductions in FY 2009/10. The FY 2009/10 budget is 7.7% less than last year's adopted budget.

Property taxes are expected to remain the City's largest revenue source in FY 2009/10. Despite the decline in other major revenues since the peak year of FY 2000/01, property tax revenues have remained relatively strong. Although the extremely vigorous real estate market sales activity of the past few years has slowed dramatically in Fremont, the City's FY 2009/10 property tax revenues are based on assessed property values as of January 1, 2009. The County Assessor is seeing increased valuation appeals activity, but even so, Fremont properties are holding their value better than elsewhere in Alameda County and the state. Therefore, property tax revenues are projected to grow in FY 2009/10 by 1.4%, to \$62.2 million.

In contrast to the consistently strong property tax trend, sales tax trends are emblematic of the City's broader revenue volatility. After reaching a high point of \$33.2 million in FY 2000/01, sales tax revenues endured a multi-year decline to a low point of \$26.8 million in FY 2003/04. The steep drop was caused by the collapse of the Silicon Valley technology market and Fremont's reliance on sales tax from high-tech manufacturers. Since that time, sales tax from the high-tech and biotech sectors now appears to be stabilizing, and City efforts to diversify and strengthen our sales tax base by increasing the consumer retail sales and auto sales tax bases also have been a big help. Unfortunately, the consumer spending collapse, fueled by rising unemployment, foreclosed homes, and a sense of consumer panic following the financial market melt-down that occurred in September and October 2008, is now taking a toll on our sales tax revenues. Two of our automobile dealerships and one major electronics retailer have closed, and other retailers are struggling. As a result, we expect to see a 6.6% decline in our sales tax revenue in FY 2008/09, followed by a 2.5% decline in FY 2009/10, to \$32.4 million (including the "triple flip" property tax replacement for one-quarter of our sales tax).

If, in a given year, total resources available exceed total uses, the "surplus" increases fund balance. Fund balance has been a crucial resource for cushioning the City's transition to a lower revenue base in recent years. Instead of spending all of the surplus during the "boom" years of the late 1990s, the City set aside a portion of those revenues in fund balance for use in future lean years.

In FY 2008/09, the City is expecting to use all of its remaining \$3.2 million fund balance, plus \$7.3 million from the Budget Uncertainty Reserve (up from the \$4.1 million anticipated at the time the FY 2008/09 budget was adopted in June 2008, before the global financial market crisis erupted in the fall of 2008). In FY 2009/10, another \$3.6 million of the Budget Uncertainty Reserved will be needed to balance the budget. Based on all the data we have at this time and economic forecasts from a range of sources, we are making the following key assumptions for the FY 2009/10 budget:

- 1. Sustainable budget reductions are necessary in FY 2009/10, resulting in a budget that is 7.7% less than the year before.
- 2. General Fund resources will decline by a little less than 1%, in contrast to the more typical growth experienced in prior years of at least 4%. When compared to the FY 2008/09 adopted budget, the revenue decline is actually 5.4%.
- 3. A reduction of 1% of expenditures and the "freezing" of selected vacant positions that was implemented in December 2007 and continued through FY 2008/09 will become permanent in FY 2009/10.
- 4. The worsening State budget continues to be a threat, which means that this budget should be considered "**provisional**" in nature, with additional modifications likely needed during FY 2009/10.
- 5. No specific provision is made for future State takeaways in the proposed budget. However, the City will be ready to respond to any such take-aways confirmed by State legislative action when the amount and timing are known, and we will return to Council as needed.
- 6. In addition to the departmental reductions, total expenditures in the FY 2009/10 budget and the forecast for FY 2010/11 include nonspecific savings of \$1.5 million per year (approximately 1.0% of total budgeted expenditures and transfers out in FY 2009/10) to compensate for the historical tendency to under-spend total resources allocated (e.g., variable rate debt costs are often less than the budgeted amount, which is calculated in accordance with debt covenants).
- 7. The FY 2009/10 budget does not include any prefunding of the City's other post-employment benefit (OPEB) liabilities, nor does it include any contribution to capital projects. These items begin to be funded again in FY 2011/12.
- 8. The City will prepay its FY 2009/10 employer contribution to CalPERS, resulting in an estimated savings to the General Fund of \$950,000.
- 9. The General Fund's primary reserves, which previously totaled 15% of total expenditures and transfers out, will be reduced by Council action to 12.5% of total expenditures and transfers out. In addition, \$7.6 million in reserves will be spent over the next two fiscal years \$3.6 million of the remaining Budget Uncertainty Reserve in FY 2009/10 and \$4.0 million (the rest of the original Budget Uncertainty Reserve and \$3.7 million resulting from the change in reserve policy) in FY 2010/11.

Impact of State's Financial Condition: The instability of the State budget continues to be a real threat to local governments, including Fremont. In October 2008, the State finally passed a budget for FY 2008/09 that relied heavily on debt and deferral of expenses. That budget was out of balance as soon as it was passed because it was based on revenue projections from the spring that had not been updated. In late 2008, the State's budget problems got even worse as a result of the financial market credit crisis and the national recession. By January 2009, the State projected that it would face a \$40 billion shortfall by the end of FY 2009/10 if no corrective actions were taken.

In late February 2009, the State adopted a revised FY 2008/09 budget and a budget for FY 2009/10. The relative value of the package of solutions for the 18-month period ending June 30, 2010, is as follows:

Tax increases and other revenues	\$12.7 billion
Spending reductions and fund shifts	22.6 billion
Borrowing	5.4 billion
Value of total package	\$40.7 billion

Among the tax increases are a 1% increase in sales tax through FY 2011/12, an increase in the vehicle license fee (VLF) to 1% through FY 2011/12, and a further increase in the VLF of 0.15% for local public safety programs through FY 2010/11.

On May 19, 2009, California voters went to the polls to decide the fate of six ballot initiatives that were necessary to implement all the provisions of the FY 2009/10 State budget. A key measure was Proposition 1A, which would have changed the State budget process and could have limited future deficits and spending by increasing the size of the State "rainy day" fund, for use during economic downturns and other purposes, and requiring above-average revenues to be deposited into it. If Proposition 1A had passed, the 1% sales tax increase would have remained in effect for one additional year, through FY 2012/13, and the VLF increase would have remained in effect through FY 2012/13.

Even with the adoption of the FY 2009/10 budget package and assuming that all of the propositions on the May 19 ballot had passed, the State would still face multibillion-dollar budget shortfalls in the coming years, for a number of reasons. First, the State's economic recovery from the recession is expected to be relatively slow. According to the State Department of Finance, the outlook for the California economy is for negative growth in 2009, followed by weak growth in 2010, and better growth in 2011. The State Department of Finance does not expect the economy will improve significantly until credit becomes more readily available. In addition, many of the solutions adopted as part of the FY 2009/10 budget are short-term in nature – meaning that they will not help balance the budget in future years. Consequently, based on current projections, the State will need to adopt billions of dollars in additional spending reductions, tax increases, or other solutions in the coming years.

On May 14, 2009, the Governor issued his May Budget Revise, consisting of two proposals contingent on the outcome of the May 19 special election. Because of continuing revenue shortfalls, the State expects to have a \$15.4 billion deficit to resolve in FY 2009/10, even if the voters had approved the six measures on the May ballot. Because the voters rejected those measures, the State budget deficit is now expected to grow to \$24 billion. As a result, the Governor proposes to borrow \$2 billion in property taxes from local government under the provisions of Proposition 1A of 2004, among other things. This appears to be the only impact on local government, but education and social services will likely be further impacted. The Governor's budget proposal does not include taking any property tax increment from redevelopment agencies. While somewhat encouraging, it is important to remember that any budget proposal requires a 2/3 vote of both houses of the State Legislature and the Governor's signature in order to take effect.

Proposition 1A of 2004 provides that the State can borrow 8% of local property taxes no more frequently than twice every 10 years, and the second time only if the first borrowing has been repaid. Each borrowing must be repaid within three years, with interest. For Fremont, 8% of our property taxes

(including the "triple-flip" sales tax replacement) is \$5.5 million. The 8% amount is actually measured at the county level, and may be distributed among local agencies in any manner, so long as the total 8% at the countywide level is remitted to the State. That allocation methodology is not yet known. As a result, Fremont's share could actually be more or less than 8%.

State constitutional provisions and State laws approved by the voters limit the State's budget flexibility in solving structural deficits. Voters have "locked in" an increasing share of budgeted expenditures without increasing revenues. Such voter-approved funding commitments are often contradictory but, even worse, they reduce the State's flexibility needed to deal with changing budget circumstances. All of these factors, combined with the need for a two-thirds vote in each house of the Legislature to approve a budget, make it especially difficult for the Governor and the Legislature to reach agreement on the State's budget.

Operational Impacts and Challenges: As the depth and nature of the current crisis have become clearer, it is evident that the City must significantly reevaluate the services provided to the community. City services are provided by employees, and financial instability impacts City staff. Several years ago, the City cut costs by more than 25% and reduced staff by more than 220 people (144.78 fulltime equivalent positions [FTEs] held by 165 people, plus 59 temporary staff). These severe reductions in FY 2002/03 created critical public safety and maintenance issues and have hampered our ability to provide optimal administrative support to frontline operations.

The recent economic downturn (the result of the credit market and sub-prime mortgage crises shaking the entire country) and concern about how the State will deal with its own budget gap mean that we do not currently have the resources to staff all of our remaining authorized positions throughout the City. Eleven vacant positions in several departments were frozen in FY 2007/08, and funding for those positions was not included in the FY 2008/09 budget. Those positions have now been permanently eliminated in the FY 2009/10 budget because the likelihood of ever having sufficient funding to fill those positions is extremely remote. In addition, all departments were directed to reduce their budgets by 1% in December 2007, and that savings target is carried forward and made permanent in the proposed appropriations for FY 2009/10.

As the global financial crisis unfolded in FY 2008/09, it also became increasingly apparent that more drastic budget reductions would be needed in order to live within our means. To that end, public safety departments were asked to reduce their budgets by 5% and all other departments were asked to make 10% reductions. Because of declining development activity, Community Development took a reduction of 20% in costs funded by developer fees. We will continue to closely monitor development and permit activity to determine if further reductions are needed.

These budget reductions result in staffing changes in the organization in FY 2009/10. The total authorized staffing Citywide is decreasing from 919.975 fulltime equivalent positions (FTEs) in FY 2008/09 to 846.00 FTEs in FY 2009/10, a decrease of 73.975 FTEs (8%), in addition to the elimination of 29 temporary staff. These position reductions affect all City departments. Although these actions are necessary to help balance the budget, staffing levels for the most basic services – public safety and maintenance – are at their lowest level in at least 18 years when viewed in relation to Fremont's population. The total City workforce now consists of 3.9 FTEs per 1,000 residents.

This level of budget reductions will have a noticeable impact on the community. There are some services that we simply will not be able to provide. Following is a summary of the more significant reduction impacts:

<u>Police</u>: The Police Department is eliminating ten vacant police officer positions and one vacant police captain position, in addition to several non-sworn positions. This means that most shifts will be staffed at safety minimums, rather than service minimums. The community will experience delays in responses to less critical crimes, such as theft or drug- and alcohol-related crimes. To meet the budget reduction target, the Police Department front desk and lobby will now only be open between 8:00 a.m. and 5:00 p.m. Monday through Friday (they are currently open 24 hours a day, 7 days a week). However, there will be a telephone outside the front door with direct access to the Dispatch Center in case of emergency. The Citizen's Ride-along Program and National Night Out will be significantly scaled back (and, perhaps, eliminated). In addition, the Street Crimes Unit may be suspended, which will result in significant reductions in proactive arrests and the ability to address crime trends.

<u>Fire</u>: The Fire Department is eliminating nine vacant firefighter positions and reducing overtime by scheduling rotating fire station closures ("rolling brownouts"), which means closing stations on days when certain criteria are met so as to not pay overtime to staff vacancies. The station closures will increase response times for fire and emergency medical calls, resulting in the possibility of larger fires and poor outcomes on medical aid calls.

<u>Community Development</u>: The Community Development Department uses temporary employees to flex and adjust as building activity increases or falls off, thus allowing a core staffing level to be in place at all times. However, over the last year the department has seen a significant decline in permit activities, and it may take years for development activity to recover and resume at any appreciable level. To deal with this decreased service demand, both temporary and regular positions will be eliminated. These staff reductions may result in slower response times to customer requests. For example, the department will no longer have the capacity to provide back-up services for fire inspections.

Transportation and Operations: As a result of significant staff reductions in the Maintenance Division, the community will experience an increase in the deterioration of road conditions, increased illegal dumping and graffiti sightings, more unsightly and worn median landscaping, and overgrown street trees. Medians and trees throughout the community will be noticeably affected. One of the four median maintenance crews and the entire Program Pruning operation for street trees is being eliminated. As a result, property owners will be required to take on the responsibility of maintaining street trees in accordance with City policies. This transfer of responsibility may require the adoption of a new tree policy and ordinance by the City Council. Tree and median crews will continue to provide safety pruning of trees and median landscaping. Because of staff reductions in Building Maintenance, staff will only be able to respond to safety, security and emergency requests. Preventative maintenance, such as gutter cleaning and aging facility preservation work, as well as other non-urgent requests, will be delayed or not responded to at all.

The Transportation Engineering Division will no longer respond to all traffic-related service requests from the public. Instead, they will now respond only to safety-related and legal obligation requests. This approach means that requests for additional signage, crosswalks, and restricted parking will be delayed until the higher priority requests are completed.

<u>Parks and Recreation</u>: The community will be affected in a variety of ways by the reduction in staffing in the Park Maintenance Division. Maintenance at Central Park will be significantly reduced, the temporary skate park will not open, lawn edging and leaf blowing cycles will be extended, and trash and litter pick-up schedules will be reduced, potentially resulting in overflowing trash cans and increased citizen complaints. Park equipment repairs will be less timely, and irrigation maintenance will only be conducted when actual breaks occur, rather than proactively, which may result in increased water usage and loss of plant material.

In the Recreation Division, scholarships for 139 fewer low-income families for the summer playground program will be distributed.

<u>Human Services</u>: Because of the increased need for Human Services programs during these difficult times, some General Fund costs will be shifted to grant funding sources. Contractual services for database-related work will be transferred to in-house Information Technology Services (ITS) staff rather than using outside consultants. This will mean an increased workload for ITS staff and may result in delays in ITS services to other departments, as well.

Economic Development: Much of the work in Economic Development is done using contractors and consultants, so budget reductions are achieved by reducing these contracts. For example, the contract for retail development services will be reduced to specific project work only, resulting in less retail recruitment, attraction, and expansion efforts. In addition, major economic development study and marketing materials will now be completed every other year, rather than annually.

<u>General Government</u>: General Government consists of the City Attorney's Office, the City Clerk's Office, the City Manager's Office, the Finance Department, the Human Resources Department, and the Information Technology Services Department, and represents 8.2% of the total General Fund budget. A 10% reduction in all of these operations means delays in providing support services to the line departments, delays in responding to requests from the community, some reduction in capacity to collect certain revenues, a loss of institutional knowledge, decreased systems reliability, and increased vulnerability to internal control and computing infrastructure threats.

Besides the operational impacts described above, another budget challenge is the increasing cost of maintaining Fremont's infrastructure, primarily due to three factors. First, as Fremont ages, so does its public infrastructure. The majority of Fremont's public infrastructure was constructed many years ago and now requires either an increased level or frequency of repairs, compounded by not having had adequate resources to spend on street maintenance in the past. Second, as Fremont continues to grow, additional infrastructure is added that must be maintained, further stretching the City's limited maintenance resources. Finally, new requirements result in increased costs. Some of these requirements are voluntary, such as the City's continued move toward greater sustainability. Although sustainability programs such as improved energy efficiency will eventually save money and reduce greenhouse gas emissions, in the near term there are increased transitional costs. Other maintenance requirements, which are regulatory in nature, have increased dramatically over the last few years, and have added significant costs to City operations. In addition to new storm water requirements, the City must comply with new regulations that compel reducing emissions from our fleet (resulting in a diesel engine retrofit program and new hazardous materials controls) and that restrict the type of paint that can be used for pavement signing and striping (resulting in the need to repaint all traffic signs and stripes more frequently).

Major City Initiatives: Although the City's current economic climate is grim, affecting the breadth and depth of services offered to the community, there are many important initiatives currently underway. These initiatives are important investments in the community's future and position the City well for long-term growth and stability. Notwithstanding the impacts of budget reductions, City staff must continue to do its best to move these important initiatives forward.

Development: There are a number of significant development projects and initiatives underway. These are all important elements of our sales tax diversification strategy.

<u>Capitol Avenue/Midtown District</u>: The Capitol Avenue/Midtown District project is a "Main Street" style pedestrian-oriented mixed-use development focused in the area bounded by Fremont Boulevard, Mowry Avenue, Paseo Padre Parkway, and Walnut Avenue. In August 2008, the City entered into a Memorandum of Understanding (MOU) with TMG Partners for planning and development. Staff is currently working with TMG Partners on the development of a Specific Plan/Precise Plan for the Midtown District and associated environmental review. When completed, these documents will provide certainty for developers as to the type of project that can be developed and will help expedite the approval process, saving both time and money.

<u>Retail Centers</u>: Pacific Commons is an 880,000 square-foot retail center located at I-880 and Auto Mall Parkway. It is anticipated that re-tenanting of existing vacant spaces and a potential proposal to expand the Center will be the focus of attention in FY 2009/10.

Creekside Landing is a proposed 400,000 square-foot regional shopping center located at I-880 and Dixon Landing Road. The Center is in the final stages of planning review and approval. The upcoming fiscal year will be focused on physical construction and ongoing efforts at retail recruitment, prior to the Center's anticipated opening in the fall of 2010.

Emerging Technology: Fremont's biotech and medical device industry cluster continues to grow. In addition to improvements made at Amgen's facility, several small to mid-size life science firms have recently located in Fremont, and staff continues to meet with potential businesses and market local sites. Fremont is also developing a "clean and green" technology cluster that we are actively seeking to expand and promote. The establishment of these various technology clusters promotes business-to-business opportunities, helping both the local businesses and the City's sales tax revenues.

<u>Local Business Stimulus Package</u>: In March 2009, the City Council approved a number of measures as part of a Local Business Stimulus Package designed to help existing Fremont businesses and provide incentives to continue to attract new businesses to Fremont during these difficult economic times. The measures in the Local Business Stimulus Package include the following:

- Reduce Development Impact Fees citywide by 10% until December 31, 2011 by collecting 90% of the fee during this time.
- Reduce Development Impact Fees by 25% within the Central Business District (CBD) until December 31, 2011 by collecting 75% of the fee during this time.
- Change the current practice of collecting Development Impact Fees at time of building permit issuance to collecting fees prior to final inspection or granting of Certificate of Occupancy.

- Exempt clean technology firms from the Business License Tax for a number of years (still to be determined).
- Increase the local business purchasing preference from 2.5% to 5% until December 31, 2010.
- Authorize the City to participate in the Statewide Community Infrastructure Program in order to offer developers an alternative financing program to pay Development Impact Fees.
- Assist qualifying local businesses with creating a Foreign Trade Zone.

In addition, there are a number of other ongoing Economic Development, Redevelopment Agency, and Planning Division activities that will be retooled and/or introduced in the upcoming year as part of the City's concerted effort to provide additional assistance for local businesses. These activities include the following:

- The City's "Shop Fremont" campaign
- Business workshops offered through the Alameda County Small Business Development Center
- The Redevelopment Agency's Commercial Rehabilitation Program
- Partnering with local educational institutions and employment agencies to promote job training and employment resources
- Providing additional promotion of Employment Training Panel funds and Industrial Development Bonds for qualifying businesses
- Updating the Sign Ordinance to allow more leeway and flexibility for businesses to market and promote themselves

Federal Economic Stimulus: President Barack Obama signed the \$787 billion American Recovery and Reinvestment Act (ARRA) of 2009 into law on February 17, 2009. The American Recovery and Reinvestment Act of 2009 is also commonly known as the Federal Stimulus Package. The main objectives of the Federal Stimulus Package are to create jobs and stabilize the economy. ARRA funding is targeted to programs in the areas of health care, energy, infrastructure, education, public safety, transportation, environment, affordable housing, and economic development. In some cases, funding guidelines have been established, and in other cases the guidelines are still being developed.

Staff is actively tracking the status of ARRA implementation and assessing which funding sources are appropriate for Fremont. Generally, funding may be accessed through state and regional agencies (e.g., CalTrans, Metropolitan Transportation Commission), through formula programs administered by federal agencies (e.g., Housing and Urban Development), or through discretionary grant programs administered by federal agencies (e.g., Department of Justice). In some cases, funding is available by formula, and in other cases funding is provided through a competitive process.

At this time, staff believes Fremont may receive approximately \$9.23 million in ARRA funding, the largest portion of which is \$4.01 million in new funding for street overlays. This infusion of cash will increase total funding for street overlays to \$7.4 million for FY 2008/09. Other significant opportunities include additional CDBG funds, which may be used for capital needs and social services; funding for affordable housing through the Neighborhood Stabilization Program; funding for homelessness prevention; competitive grants to fund police officers (COPS funding); funding for police equipment; and funding for storage buildings at Fire Stations 6 and 11.

In addition to the City applying directly for ARRA funds, there are a number of grants available to businesses that the Office of Economic Development is tracking. Economic Development staff are marketing these funding opportunities to Fremont businesses and working with individual businesses, as appropriate, to ensure they receive their fair share of stimulus funds. Some of the funding opportunities include the following:

- \$636 million for Small Business Administration (SBA) loan programs, including \$30 million for expanding SBA's Microloan program and offering SBA loans of up to \$35,000 for small businesses facing economic hardship.
- \$6 billion from the Innovative Loan Guarantee Program through the U.S. Department of Energy.
- \$3.95 billion for Workforce Investment Act Programs for employee training and development through the U.S. Department of Labor.

General Plan Update: State law requires cities to adopt a comprehensive General Plan, which serves as the "constitution" for all future development decisions in the community. In FY 2007/08, the City began working on an update to its General Plan, which was last comprehensively rewritten in 1991. As part of that effort, staff sought extensive community input, completed several technical studies, and held a series of study sessions with the City Council and the Planning Commission on land use policy issues. In FY 2009/10, the Planning Commission and City Council will continue to provide policy direction and establish the vision for the City's future, and staff will use that information in drafting the General Plan, for consideration and final adoption by the City Council toward the end of the fiscal year.

Redevelopment: Several exciting redevelopment projects are underway. All of these projects will help to revitalize the Redevelopment Project Areas and bring new revenue into Fremont.

Centerville: One of the largest projects underway in the Centerville district is the Agency-owned Centerville Unified Site, located on a 6.6-acre site along Fremont Boulevard near Thornton Avenue. This year the Agency anticipates selecting a developer for the site, negotiating a disposition and development agreement, and commencing the entitlement process for a new development. This development will be a public/private partnership between the selected developer and the Redevelopment Agency, focused on creating a mix of uses and featuring architectural design consistent with the character of Centerville.

<u>Irvington</u>: The Washington Boulevard and Paseo Padre Parkway Grade Separation is the largest redevelopment project in the Irvington district. This \$111 million project, which will build an overpass on Washington Boulevard and an underpass on Paseo Padre Parkway to separate car, bicycle, and pedestrian traffic from railroad crossings, is described in detail in the Capital Projects section of this overview.

The Bay Street Streetscape and Parking Project is one of the cornerstones for Irvington's revitalization. The project was initiated to transform the street environment for this three-block stretch of Bay Street to support existing, and create new, commercial and residential mixed uses, as well as to encourage other public and private investments in and around the Five Corners area in Irvington. Construction of the parking lot was completed in spring 2008. Utility undergrounding, followed by streetscape improvements, will be completed in 2009.

The Grimmer Greenbelt Gateway project contemplates creating a meandering landscaped pedestrian and bicycle path from Fremont Boulevard across Paseo Padre Parkway to Central Park. Development of the preliminary design, cost estimates, and a construction phasing plan will occur in FY 2009/10.

Niles: The 138-acre Niles Redevelopment Project Area is located at the western edge of Niles Canyon, near the intersection of Niles and Mission Boulevards. For the past several years, staff has been working with the community on the development of the Niles Town Plaza. Located on the north side of Niles Boulevard on an approximately two-acre portion of the former Union Pacific (UP) Railyard Property, at H and I Streets, the \$7.25 million Town Plaza will consist of landscape improvements, a fountain, an amphitheater and stage area, and two rehabilitated historic railroad buildings. Environmental remediation of the property is complete and construction is underway, with a scheduled completion date of fall 2009. The next phase of work is to complete environmental remediation of the remaining portion of the UP site in preparation for future redevelopment, and to initiate a community participation process concerning redevelopment plans for this site and city-owned parking lots adjacent to the proposed Niles Plaza.

In conjunction with the redevelopment of the former UP property and its environs, the Redevelopment Agency will continue the design and development of a pedestrian link connecting the former UP property and Niles historic commercial core to the more visible Niles Canyon Railway passenger boarding/disembarkation platform and Mission Boulevard. The first step in this project is to identify the optimal location and type (e.g., pedestrian bridge, at-grade railroad crossing) of connection and determine the cost of construction.

<u>Proposed Plan Amendment</u>: The primary source of funding for the Redevelopment Agency is tax increment generated from the Industrial Redevelopment Project Area. It is now estimated that the current \$400 million cap on the receipt of Industrial Area tax increment will not be sufficient to provide the needed funding for the projects identified in the 1998 plan amendment. Current estimates indicate that the existing \$400 million cap will be reached in FY 2011/12.

In July 2007, staff began working on a plan amendment to increase the tax increment revenue cap. It is anticipated the plan amendment process will be completed by the end of 2009. The successful completion of the plan amendment process will increase the resources available to the Agency for both housing and non-housing activities.

Capital Projects: Despite the challenges in the City's General Fund, we continue to work on a variety of major capital projects. These projects can proceed because, for the most part, they do not rely on the City's General Fund. Rather, their funding comes from such sources as redevelopment tax increment, traffic impact fees, State and regional sources, and the Fire Safety Bond (Measure R) approved by Fremont voters in 2002.

Grade Separation Project: The \$111 million Washington Boulevard/Paseo Padre Parkway Grade Separation Project in the Irvington District is the largest public works project undertaken in the City's history. The project includes building an overpass on Washington Boulevard between Bruce Drive and Roberts Avenue and an underpass on Paseo Padre Parkway between Shadowbrooke Common and Hancock Drive to separate car, bicycle, and pedestrian traffic from railroad crossings. The project also

includes the relocation of about 1.5 miles of the active Union Pacific (UP) railroad tracks up to 500 feet to the east of where they are now in the area between Paseo Padre Parkway and Washington Boulevard.

The Grade Separation Project will benefit Fremont in a number of ways. First, it will facilitate the future BART extension to Warm Springs and San Jose by allowing the BART trains to travel at-grade once they emerge from underneath Central Park and Lake Elizabeth. Keeping trains at-grade is both less expensive for BART and less disruptive for residents and businesses near the BART tracks. Second, the project will improve safety, reduce traffic delays, and eliminate the need for freight trains to sound their horns when approaching and crossing Washington Boulevard, High Street, Main Street and Paseo Padre Parkway (the train crossings at High and Main Streets have been eliminated by the relocation of the UP tracks). In turn, eliminating traffic backups at train crossings will help reduce cut-through traffic on neighborhood streets and improve safety in the area by separating pedestrians, bicycles and vehicles from the railroad tracks.

The City has committed \$42.8 million in redevelopment funds and traffic impact fees to the project. The remaining \$68 million has been secured from State and regional sources like the State Grade Separation account, Alameda County Congestion Management Agency (CMA), bridge tolls, the County's Measure B half-cent sales tax, and a partnership with BART to bring in State Traffic Congestion Relief funds. The \$48.1 million main construction contract was awarded in March 2007, and construction began in May 2007. Construction had been scheduled to last until late 2010 or early 2011. However, construction is now more than 75% complete and the contractor is projecting a completion date of late 2009, a year ahead of schedule, and within budget.

Pavement Overlay Project: This summer, the City of Fremont will use \$4.01 million of American Recovery and Reinvestment Act (ARRA) funds, supplemented with \$800,000 of additional funding, to rehabilitate 13 street segments of arterials and collectors, for a total length of 4.3 road miles. The work will involve repairing failed areas, grinding existing pavement and overlaying with asphalt concrete, constructing new curb ramps, installing bike lanes, and replacing signing and striping. This project will restore the worn pavement to full serviceability by correcting the unavoidable deterioration of pavement caused by age, truck traffic, sunlight, rain and irrigation. The City of Fremont is working in partnership with the Alameda County Congestion Management Agency (ACCMA) and CalTrans to ensure that this project meets all the requirements of the ARRA funding. Construction plans for the project are complete and the City expects to receive final funding approval in May 2009. The estimated construction cost for this project is \$7.2 million. The remaining cost for the project will be funded through road construction specific funding sources.

<u>Fire Safety Bond Projects</u>: In November 2002, Fremont voters approved Measure R by 74.4%, thereby authorizing the City to issue \$51 million in general obligation bonds, to be repaid by a property tax levy. Proceeds from these bonds are to be used to replace three fire stations, build public safety training facilities, and make remodeling and seismic improvements to seven existing fire stations. To date, all \$51 million in bonds has been issued, and new Station 8 in North Fremont and Station 6 in Centerville have been completed. New Station 2 in Niles is currently under construction and is approximately 55% complete. In addition to Fire Safety Bond proceeds, \$1.5 million in redevelopment funds has been allocated to Station 2 so that it can be relocated from its existing site on Second Street near H Street to a site at the corner of Niles Boulevard and G Street, as a means of helping revitalize the Niles Redevelopment Project Area.

Of the stations being remodeled, six are complete (Station 1 in the Central Business District, Station 4 at Pine Street and Paseo Padre Parkway, Station 5 in Warm Springs, Station 7 at Grimmer Boulevard and Auto Mall Parkway, Station 9 at Stevenson Place, and Station 10 in Ardenwood). The remodel of Station 3 in Irvington, which will be the last fire station project, is planned to commence later this year. The public safety training facilities consist of a Police firing range, Fire training classrooms, and a Fire tactical training facility. The Fire training classrooms, which were part of the Building A Fire Administration project (funded with non-fire bond money), were completed in April 2009. The Police firing range began construction in April and is scheduled to be complete in early 2010. The Fire tactical training facility began construction in May 2009 and is scheduled to be completed in May 2010.

<u>Fire Station 11</u>: After closing a temporary station in 2003 and putting plans for building a permanent station on hold, we are once again able to move forward with opening this fire station in the Industrial Area, west of I-880. This area had previously been served by fire stations on the other side of the freeway. As this area continues to grow and develop, having a fire station in closer proximity becomes increasingly important. The temporary station opened in June 2008, and is staffed by firefighters funded, in part, by a \$1 million SAFER grant from the U.S. Department of Homeland Security. Construction of the permanent fire station is being funded by certificates of participation (COPs) that were issued in the fall of 2008. Construction is scheduled to be complete by the end of 2010.

Aqua Adventure Waterpark: The new family waterpark in Central Park, "Aqua Adventure," opened on schedule on May 23, 2009. This facility replaces the old swim lagoon and is a significant investment for the community. It was made possible with a combination of funding sources, including State Propositions 12 and 40, significant grants from The Candle Lighters and Fremont Bank Foundation, and resources from the City's Recreation Cost Center. No General Fund money has been expended on this project, and it is anticipated the waterpark will be self-supporting. This is a significant addition to the menu of recreation opportunities for the community.

Conclusion: Like all California cities, Fremont continues to be faced with the challenge of finding new ways to maximize service delivery to the community even as we are faced with the need to reduce costs in an uncertain economy. We are fortunate that people here care deeply about their community and local leaders are committed to ensuring Fremont's bright future. They want to help, they want to participate, they want to maintain Fremont as a safe place in which to raise their families, and they want to leave a legacy for future generations. Our role as an organization is to continue to find effective ways to work with our residents and business community to ensure that Fremont remains a special place where people want to live, work, and play now and in the future.

DISCUSSION OF FY 2009/10 EXPENDITURE LIMIT: Article XIIIB of the California Constitution (enacted with the passage of Proposition 4 in 1979 and implemented by SB352, Chapter 1205 of the 1980 statutes with modifications under Proposition 111 passed in June 1990 and implemented by SB88, Chapter 80 of the 1990 statutes) provides the basis for the Gann appropriation limitation. In brief, the City's appropriations growth rate is limited to changes in population and either the change in California per capita income or the change in the local assessed property roll due to new, non-residential construction.

The formula to be used in calculating the growth rate is:

The resulting rate times the previous appropriation limit equals the new appropriation limit.

Both the California per capita personal income price factor and the population percentage change factors are provided by the State Department of Finance to local jurisdictions each year. Population percentage change factors estimate changes in the City's population between January of the previous fiscal year and January of the current fiscal year. Reports that present changes in new, non-residential assessed value are provided by the County of Alameda. These numbers provide the basis for the factor to be used in the City's calculation of the Gann Limit. Of the two methods above, the City is using the "new, non-residential assessed valuation" factor because it results in the higher appropriations limit.

On May 1, 2009, the State Department of Finance notified each city of the population changes and the per capita personal income factor to be used in determining appropriation limits. The calculation as applied to the City of Fremont for 2009/10 is:

The population on January 1, 2008 (213,124) compared to the population on January 1, 2009 (215,636), is 2,512, representing a 1.18% increase.

The change in new, non-residential assessed valuation is 5.34%.

The factor for determining the year-to-year increase is computed as:
$$\frac{1.18 + 100}{100} \quad X \quad \frac{5.34 + 100}{100} = 1.0658$$

Applying this year's factor of 1.0658 to last year's limit of \$468,141,923, the Gann Limit for FY 2009/10 yields \$498,945,662. Based on an operating budget of \$135,667,000, Fremont is not at risk of exceeding the Gann Limit.

GENERAL FUND RESERVE POLICY: Concurrent with the adoption of the FY 1996/97 operating budget, the City Council also established two General Fund reserve accounts. One, the Contingency Reserve, is intended to help mitigate the effects of unanticipated situations such as natural disasters and severe, unforeseen events. The Contingency Reserve also serves as back-up liquidity to the Risk Management Fund if this need were to arise. The Contingency Reserve is currently funded at a level at least equal to 12.5% of annual operating expenditures and transfers out. All uses of the Contingency

Reserve must be approved by the City Council. Any such uses are to be repaid to the Contingency Reserve over a period of no more than three years.

The second reserve account is the Program Investment Reserve, which provides a source of working capital for the following:

- a) New programs or undertakings that have the potential for receiving significant funding from outside sources.
- b) Organization retooling, process improvement, and strategic entrepreneurial opportunities.

The Program Investment Reserve is funded at a level at least equal to 2.5% of annual operating expenditures and transfers out. All uses of the Program Investment Reserve must be approved by the City Council. Any such uses are to be repaid to the Program Investment Reserve over a period to be determined by the City Council at the time of usage approval, with a target repayment period of no more than three years.

In addition, the Council established the Budget Uncertainty Reserve in June 2002, and subsequently modified it in June 2003. This reserve is targeted to offset quantifiable revenue uncertainty in the multi-year forecast. The long-term funding level for this reserve is determined by measuring the level of financial risk associated with the following three areas of uncertainty:

- 1. **Revenue risks:** Revenues falling short of budget projections (which sometimes include as much as a 1%) enhancement factor) may cause shortfalls. Transitional funding is also necessary to respond to reductions in major revenues due to local, regional, and national economic downturns (estimated to take one to three years).
- 2. **State budget risks:** There is a strong possibility, beginning in FY 2008/09, that the State may implement budget solutions that legislatively reallocate intergovernmental revenues from local jurisdictions to the State (in the absence of guarantees or constitutional protection of these revenues). These include property taxes, sales taxes, vehicle license fees, gas taxes, grants and reimbursements.
- 3. *Uncontrollable costs:* The City requires a source of supplemental funding for further increases in CalPERS retirement rates that result from CalPERS investment performance that falls short of actuarial assumptions. In addition, there may be other cost increases that are beyond the City's control (e.g., various fuel and utility charges).

All uses of this reserve must be approved by the City Council. If the risk factors described above are eliminated as a result of new revenues sources, legislation, or major changes in economic conditions, the basis for the reserve will be reviewed and the funding level may be adjusted accordingly. In the event the reserve has accumulated funding beyond the established level reasonably required to offset the risks above, excess funds will be designated for capital projects, budgeted for service enhancement, or returned to the General Fund available fund balance.

The policy for the Contingency and Program Investment Reserves has been in place since June 1996. In 2002, the Executive Board of the Government Finance Officers Association of the United States and Canada (GFOA) adopted a recommended practice for fund balance reserves. That policy states the following:

The adequacy of fund balance reserves in the general fund should be assessed based upon a government's own specific circumstances. Nevertheless, GFOA recommends, *at a minimum*, that general-purpose governments, regardless of size, maintain reserves in their general fund of no less than 5% to 15 % of regular general fund operating revenues, or of no less than one to two months [8.33% to 16.67%] of regular general fund operating expenditures. A government's particular situation may require levels of reserves in the general fund significantly in excess of these recommended minimum levels. Furthermore, such measures should be applied within the context of long-term forecasting, thereby avoiding the risk of placing too much emphasis upon the level of reserves in the general fund at any one time.

In establishing a policy governing the level of reserves in the general fund, a government should consider a variety of factors, including:

- The predictability of its revenues and the volatility of its expenditures (i.e., higher levels of reserves may be needed if significant revenue sources are subject to unpredictable fluctuations or if operating expenditures are highly volatile).
- The availability of resources in other funds as well as the potential drain upon general fund resources from other funds (i.e., the availability of resources in other funds may reduce the amount of reserves needed in the general fund, just as deficits in other funds may require that a higher level of reserves be maintained in the general fund).
- Liquidity (i.e., a disparity between when financial resources actually become available to make payments and the average maturity of related liabilities may require that a higher level of resources be maintained).

The recommended practice also notes the following:

- The choice of revenues or expenditures as a basis of comparison may be dictated by what is more predictable in a government's particular circumstances. In either case, unusual items that would distort trends (e.g., one-time revenues and expenditures) should be excluded, whereas recurring transfers should be included. Once the decision has been made to compare reserves to either revenues or expenditures, that decision should be followed consistently from period to period.
- In practice, levels of reserves (expressed as a percentage of revenues/expenditures or as a multiple of monthly expenditures) typically are less for larger governments than for smaller governments because of the magnitude of the amounts involved and because the diversification of their revenues and expenditures often results in lower degrees of volatility.

Since 1996, the City's two General Fund reserves (Contingency and Program Investment) have grown from \$11,820,000 to \$21,962,000. This level of reserves have served the City well over the past 13 years, but a modification of the reserve policy may now be appropriate as staff attempts to balance fiscal prudence with the organization's ability to provide basic services to the community. Accordingly, staff recommends modifying the target level of the Contingency Reserve from 12.5% to 10.0% of annual operating expenditures and transfers out. Staff further recommends no revisions to the Program Investment Reserve target funding level of 2.5% of annual operating expenditures and transfers out.

Overall, this change would result in a reduction in the percentage level of reserves from 15% to 12.5%. This is still well within the parameters of the GFOA recommended practice.

This change will result in a decrease in General Fund reserves from \$21,962,000 to \$18,302,000. Staff proposes transferring this difference (\$3,660,000) into the Budget Uncertainty Reserve as an additional buffer and tool to help balance the General Fund operating budget in the future.

ENCLOSURES: Draft Resolutions (3)

RECOMMENDATIONS:

- 1. Hold a public hearing on the operating budget and appropriations limit for FY 2009/10.
- 2. Adopt a resolution adopting the City of Fremont Operating Budget for FY 2009/10.
- 3. Adopt a resolution creating an appropriations limit of \$498,945,662 for FY 2009/10.
- 4. Adopt a resolution approving and adopting the General Fund reserve policy.

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5.2 SECOND PUBLIC HEARING ON FY 2009/10 - 2013/14 CIP Second Public Hearing and Consideration of Adoption of the FY 2009/10 - 20013/14 Capital Improvement Program (CIP)

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Executive Summary: The development of the FY2009/10 – 2013/14 Capital Improvement Program (CIP) began in September of 2008. The City Council has thus far held four meetings, including one work session, to review the results of the process that created the list of projects proposed for funding during the five-year period of this plan. The CIP plan identifies the funding that projects will receive in each year of the plan as well as the unfunded capital projects. Staff returned to the City Council on June 2, 2009 to hold a public hearing, review the projects and funding schedule, and to receive comments on the proposed plan. The purpose of this item is to review any changes since June 2, 2009; hold the second public hearing; and adopt the FY 2009/10 – 2013/14 CIP.

BACKGROUND AND DISCUSSION: The purpose of the five-year CIP is to translate capital improvement and asset maintenance policies of the City Council into specific projects. Every two years, staff embarks on a significant effort to produce the CIP. On December 16, 2008, City Council held a work session at which staff described this year's CIP development process. The City Council reviewed its project prioritization policy at that meeting to ensure it continued to reflect the importance of maintaining the City's assets as part of the CIP. The two highest priorities for the City Council remain projects that maintain or fix assets that pose safety risks and projects that maintain assets in order to preserve asset life.

At the January 27, 2009 meeting, staff described the range of capital projects submitted for consideration, reviewed the preliminary status of the process, identified funding issues, and presented the preliminary ranking of projects. Following the January 27, 2009 meeting, staff proceeded to further cost and scope projects and prioritized the timing of projects in the proposed plan. At the April 7, 2009 meeting, the City Council received the final project listing, along with the funding timeline for each project. On May 14, 2009, the Planning Commission reviewed the CIP for the purpose of evaluating and ensuring project compliance with the General Plan, as required by State law. On June 2, 2009, a public hearing was held for comment on the FY 2009/10 – 2013/14 CIP.

FISCAL IMPACT: The proposed Capital Improvement Program for FY 2009/10 – 2013/14 programs over \$155.6 million in projects over the five year life of the plan. Approximately \$38.3 million and \$31.4 million will be allotted in FY 2009/10 and FY 2010/11, respectively, before the CIP will be revisited for FY 2011/12 – 2015/16.

ENVIRONMENTAL REVIEW: The adoption of the Capital Improvement Program itself is not an action subject to the California Environmental Quality Act (CEQA). There will be subsequent environmental analysis upon further development of the various projects.

ENCLOSURE: Draft Resolution

RECOMMENDATIONS:

- 1. Hold a public hearing on the five-year FY 2009/10 2013/14 Capital Improvement Program.
- 2. Adopt a resolution approving the FY 2009/10 2013/14 CIP, including the appropriation of the proposed funding amounts from the funding sources shown in the Fund Source and Use report for all five fiscal years, with specific allotments for FY 2009/10 to be made effective July 1, 2009, specific allotments for FY 2010/11 to be made effective July 1, 2010, and specific allotments for each ensuing fiscal year to be made effective July 1 of that fiscal year.
- 3. Approve (reaffirm) the long-term capital debt policy as included in the FY 2009/10 2013/14 CIP.
- 4. Authorize the City Manager to adjust the timing of the specific allotments approved by the City Council. (This allows accelerating or deferring the timing of these funds in response to changed conditions, but does not change the total appropriations for any project.)
- 5. Authorize the City Manager to transfer appropriations and allotments of up to \$50,000 per project from the Capital Improvement Program Cost and Scope Contingency (PWC 8101) and the Emerging Project Reserve (PWC 7101) as necessary.
- 6. Authorize the transfer of the following funds:
 - a) <u>General Plan Update</u> \$225,000 transfer in FY2009/10 from Fund 012 (Community Development Cost Center Fund Balance) to Capital Improvement Fund 501.
 - b) <u>Historic Inventory</u> \$25,000 transfer in FY 2009/10 and \$25,000 transfer in FY 2010/11 of the five year plan from Fund 012 (Community Development Cost Center Fund Balance) to Capital Improvement Fund 501.
 - c) <u>Address Assignment and Parcel Automation</u> \$200,000 transfer in FY2009/10 from Information Technology Systems Fund 620 to Capital Improvement Fund 501.

6.1	Report Out from Closed Session of Any Final Action

7.1 TRAFFIC IMPROVEMENT PROGRAM – FISCAL YEAR 2008/09 Approve the Fiscal Year (FY) 2008/09 Signal Priority List and Allocate Funds Budgeted for Various Traffic Improvement Project for FY 2008/09 and FY 2009/10

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Executive Summary: The purpose of this report is to request that the City Council approve the Fiscal Year (FY) 2008/09 Signal Priority List, and allocate funds budgeted in PWC 7953 (Traffic Improvement Program) to various traffic improvement projects. The projects staff recommends are: 1) intersection improvements at Stevenson Boulevard/Sundale Drive, Stevenson Boulevard/Besco Drive and Stevenson Boulevard/Davis Street; and 2) preparation of the 2010/11 signal priority list and traffic improvement program.

BACKGROUND: The City has been using a traffic signal priority list as the basis for allocating capital improvement funds for traffic improvement projects since FY 1980/81. The City evaluates the need for new signals at candidate intersections based on the criteria identified in the California Manual of Uniform Traffic Control Devices (MUTCD). There are 203 signalized intersections within the City limits. The City of Fremont currently has 159 City-owned or maintained signalized intersections, and Caltrans controls 44 additional signalized intersections.

Discussion:

Traffic Improvement Program for FY 2008/09: Thirty-two intersections were reviewed during the preparation of the FY 2008/09 Signal Priority List. The justification for the installation of a traffic signal is based on warrants listed in the California MUTCD. Intersections that meet at least one of the following warrants are included in Signal Priority List: eight-hour vehicular volumes, four-hour vehicular volumes, peak hour volume, school crossings and accident experience. Twenty-one intersections qualified for the list by meeting at least one of the above traffic signal warrants. Experience shows that the number of accidents (right-angle and left-turn collisions) may decrease after the installation of a traffic signal. Enclosure A shows the FY 2008/09 Signal Priority List for intersections that meet one or more warrants, and Enclosure B shows the list of intersections evaluated that did not meet any warrants.

For Council's information, the top three intersections in the signal priority list are discussed below, although none are recommended for a new traffic signal installation:

Auto Mall Parkway/Southlake Commons – Ranked No. 1 (37 Points): This intersection is a three-legged intersection with the minor street (Southlake Commons) serving a mobile home park. This intersection ranked high because of the high traffic volume on the major street. Because there is a wide median along Auto Mall Parkway, drivers making a left turn out of Southlake Commons can cross the westbound

lanes of Auto Mall Parkway and wait in the median before entering into the eastbound traffic lanes. There is good visibility at the approaches to the intersection. Based on staff observations, very minor delay is experienced by the side street, with queues ranging from one to four vehicles. Installation of a traffic signal could increase delay on Auto Mall Parkway and congestion at this intersection, and therefore is not recommended at this time.

Number of Accidents: 0 (2005), 0 (2006), 0 (2007)

Blacow Road/Gatewood Street – Ranked No. 2 Tied (33 points): This intersection is a three-legged intersection. This intersection ranked high because of pedestrian activity, and it is located near a park and school. However, a majority of the pedestrians observed at the intersection walked on the existing sidewalk that crosses a minor driveway on the north side of the intersection, with minimal conflict between vehicular and pedestrian traffic. Peak hour field observations showed no substantial delay or congestion at the intersection. A high percentage of the vehicles turning out of Gatewood Street made right turns, and there were sufficient gaps in the traffic on Blacow Road to allow vehicles to turn into or out of Gatewood Street. The installation of a traffic signal could increase delay and congestion at this intersection, and therefore is not recommended.

Number of Accidents: 1 (2005), 0 (2006), 1 (2007)

Grimmer Boulevard/Seneca Park Drive - Ranked No. 2 Tied (33 points): This is a four-legged intersection controlled by stop signs on Seneca Park Drive. This intersection ranked high because of the high traffic volume on Grimmer Boulevard. Based on staff observations during the peak hour conditions, there was no substantial delay or congestion noted at the intersection since there were sufficient gaps in the traffic on Grimmer Boulevard to allow vehicles to turn into or out of Seneca Park Drive. Vehicle queue lengths were typically only one to two vehicles on the side street. The installation of a traffic signal could increase delay on Grimmer Boulevard and congestion at this intersection, and therefore is not recommended.

Number of Accidents: 0 (2005), 0 (2006), 2 (2007)

Allocation of Funds: Staff recommends the allocation of funds for the following projects:

1. Intersection Improvements at Stevenson Boulevard/Sundale Drive, Stevenson/Besco Drive and Stevenson/Davis Street: Staff recommends the allocation of \$285,000, \$310,000 and \$280,000 respectively for intersection improvements at Stevenson/Sundale, Stevenson/Besco and Stevenson/Davis. The traffic signal equipment at these three intersections is outdated and needs to be upgraded with signal equipment that meets current State and City standards and is more energy efficient. The outdated signal system is prone to frequent signal malfunction, which typically leads to traffic delays and higher maintenance cost. All existing signal poles, vehicle and pedestrian signal heads, pedestrian push buttons and all conduits and wiring will be replaced at all three intersections. In order to reduce signal pole knockdowns, signal poles (for left turn traffic) mounted in the medians will be removed and replaced with new signal poles behind the face of the curb with longer mastarms. To increase the visibility of the signal heads, all existing 8-inch signal heads will be replaced with new 12-inch signal heads. The project will include installing Americans with Disabilities Act (ADA) compliant curb ramps, installing countdown

pedestrian indicators, and installing updated Accessible Pedestrian Signal (APS) push buttons for visually impaired pedestrians. The project will also include the installation of sidewalk near the intersections to accommodate the relocation of bus stops from the adjacent frontage road to the Stevenson Boulevard main street. The relocation of the bus stops from the frontage road will result in a more efficient and direct bus operation, eliminate the conflict between parked cars and buses, and reduce the pavement wear on the residential frontage road.

The project will also install two Closed Circuit Television (CCTV) cameras along Stevenson Boulevard. The installation of CCTV cameras will allow the broadcast of live video images from the intersections back to the City's Traffic Management Center (TMC) in the Development Center building. At the TMC, staff will be able to monitor traffic flow on Stevenson Boulevard and along each cross street from the cameras. The installation of the cameras will provide staff with the tools necessary to be more proactive in identifying and verifying any traffic issues from the TMC and mitigating them in a timely manner by remotely adjusting the traffic signal cycle length and coordination in order to minimize adverse impact to the traveling public.

- 2. Signal Priority List and Traffic Improvement Program Preparation: Staff recommends the allocation of \$30,000 for staff time to prepare the next signal priority list and traffic improvement program for FY 2010/11. Preparation of the signal priority list involves gathering vehicle approach counts for each intersection over a 24 hour period, analyzing traffic volume and accident data, signal warrant preparation and evaluation, signal priority list evaluation, field observations and preparing reports and exhibits.
- 3. Other Transportation Engineering Projects: The remaining unallocated balance in PWC 7953 is approximately \$420,000. The remaining balance will be used to fund future transportation improvement projects. Staff will request City Council's approval to allocate funds to these projects when needed.

Funding: The FY 2008/09 Capital Improvement Program (CIP) includes \$550,000 from Traffic Impact Fees (TIF) for traffic improvement projects. These funds are held in PWC 7953 (Traffic Improvement Program) until City Council approves the allocation of funds to new transportation improvement projects. Once Council approves the current CIP Plan scheduled for adoption on June 9, 2009, then the CIP will allocate \$550,000 to PWC 7953 in FY 2009/10.

PWC 7953 (FY 2008/09) \$775,000 PWC 7953 (FY 2009/10) \$550,000

Staff recommends the following allocation for the FY 2008/09 and FY 2009/10 Traffic Improvement Program:

	FY 2008/09 & FY 2009/10 Traffic Improvement Funding	Proposed Allocation
1.	Intersection Improvements at Stevenson Boulevard/Sundale Drive	\$285,000
2.	Intersection Improvements at Stevenson Boulevard/Besco Drive	\$310,000
3.	Intersection Improvements at Stevenson Boulevard/Davis Street	\$280,000
4.	Traffic Signal Priority List for FY 2010/11	\$30,000
	Total Appropriations To Projects:	\$905,000
	Remaining Balance in PWC 7953 (FY 2009/10)	\$420,000
	Total	\$1,325,000

Environmental Review: Staff will conduct appropriate environmental review for each project as design is completed and prior to the award of a construction contract.

After receiving bids for the three intersection improvement projects, staff will return to Council for approval of plans and specifications and award of contract.

ENCLOSURES:

- Enclosure A FY 2008/09 Signal Priority List
- Enclosure B List of Other Intersections Evaluated

RECOMMENDATIONS:

- 1. Approve the FY 2008/09 Signal Priority List
- 2. Allocate \$905,000 (\$775,000 from FY 2008/09 and \$130,000 from FY 2009/10 once Council approves the current CIP scheduled for adoption on June 9, 2009) from PWC 7953 to the following projects:
 - a. \$285,000 of TIF funds to 531PWC8701 for Intersection Improvements at Stevenson Boulevard/Sundale Drive.
 - b. \$310,000 of TIF funds to 531PWC8702 for Intersection Improvements at Stevenson Boulevard/Besco Drive.
 - c. \$280,000 of TIF funds to 531PWC8703 for Intersection Improvements at Stevenson Boulevard/Davis Street.
 - d. \$30,000 of TIF funds to 531PWC8458 for the FY 2010/11 signal priority list and traffic improvement program preparation.

7.2 TRAFFIC SIGNAL MAINTENANCE AND REPAIR CONTRACT Award of Contract for Traffic Signal Maintenance and Repair, Fiscal Years 2009/10 through 2011/12

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Executive Summary: The purpose of this report is to award a contract to Republic ITS not to exceed \$1,200,000 (\$400,000 per year for three years), for the maintenance and repair of the City's traffic signals. The City procures services for the maintenance and repair of the City's traffic signal system infrastructure from companies/contractors that specialize in this field. The City's current traffic signal maintenance contract was last bid in June 2005 and was awarded to Republic Electric (now renamed Republic ITS). The contract, which was valid for four years (two initial years and extended for two additional years), expires on June 30, 2009. A request for proposals was issued and three proposals were received and evaluated. Based on that evaluation, this report requests the City Council's approval to award a three-year (fiscal years 2009/10 through 2011/12) Traffic Signal Maintenance and Repair contract to Republic ITS, with the option for the City to extend the contract for up to two additional years, to FY 2013/14.

BACKGROUND: The City does not have personnel to maintain the City's traffic signal system and, therefore, this work is contracted out. The City procures services for the maintenance and repair of the City's traffic signal system infrastructure from companies/contractors that specialize in this field. The contractor performs routine preventative maintenance as well as responds to emergency repair for situations such as a signal knock down. The City typically enters into a multi-year contract with the successful contractor and then requests proposals when the contract expires to give other contractors an opportunity to compete for the work. The City's current traffic signal maintenance contract was last awarded in June 2005 to Republic Electric (now renamed Republic ITS). The contract, which is valid for four years, expires on June 30, 2009.

The traffic signal maintenance and repair contract covers three primary work items: 1) routine maintenance, which includes regularly scheduled inspections and repairs, 2) extraordinary maintenance, which includes all unanticipated items not covered in routine maintenance, such as replacement of damaged or failed equipment, troubleshooting, and responding to emergency repair calls, and 3) traffic signal support required for other City projects, such as new signal activation. Routine maintenance costs are fixed based on the contract amount. Extraordinary maintenance costs are based on a time and materials basis established by the amounts contained in the contract. Thus, extraordinary costs vary from month to month based on the amount and type of worked performed.

DISCUSSION: A Request for Proposals was prepared for a new traffic signal maintenance and repair contract for fiscal years 2009/10 through 2011/12. This project was advertised and proposals were received on March 16, 2009. The City received three proposals from the following companies: Cal West

Lighting and Signal Maintenance, Republic ITS, and Team Econolite. An evaluation panel consisting of City staff evaluated each company based on the proposals submitted and a follow-up oral interview. Each proposer was evaluated based on the quality of the proposal and interview, response to questions, qualifications of their workforce, and cost proposal. Based on an evaluation of the proposals, Team Econolite and Republic Electric ITS were short-listed for further evaluation. Based on the proposal and interview, Republic ITS was ranked as the highest scoring proposer and also had the lowest cost proposal. Republic ITS is qualified and responsible, and has maintained the City's traffic signals for the past ten years.

As part of the proposal, each proposer was required to submit unit costs for scheduled routine maintenance and other items that are commonly performed under this contract. Based on the winning proposal's unit price and an estimate of work from historic data, the following is a summary of the estimated total annual cost:

Routine Maintenance	\$142,000
Extraordinary Maintenance (estimate)	\$125,000
Signal Knockdowns (estimate)	\$ 80,000
Support of other City Projects (estimate)	\$ 45,000
Estimated Total Annual Contract Amount	\$392,000
Staff Administration (estimate)	\$115,000
Estimated Total Annual Cost	\$507,000

The traffic signal maintenance contract also provides support for traffic signal related work for other City capital improvement projects. This work typically includes providing traffic signal inspection services, assistance during signal turn-ons, and troubleshooting. These services are charged directly to the individual PWC accounts of the associated capital improvement project and are not funded as part of the Traffic Signal Maintenance account.

The contract allows an annual adjustment to the costs included in the contract based on the San Francisco Bay Area Consumer Price Index (CPI), after the contract has been in effect for at least one year. The CPI adjustment is applicable in the initial three years of the contract and the two year extension, if exercised.

Funding for traffic signal maintenance and repairs is allocated in the City's Capital Improvement Program (CIP) as part of on-going capital maintenance. Once Council approves the current CIP Plan, scheduled for adoption on June 9, 2009, then as part of the 2009/10-2013/14 CIP, the following budget allocations will be made for traffic signal maintenance for the next three fiscal years:

	2009/10	2010/11	2011/12
Traffic Signal Maintenance	\$450,000 (1)	\$425,000	\$425,000
Traffic Signal Knockdown Repair	\$420,000 (2)	\$ 10,000	\$ 10,000

 $^{(1)\} The\ 2009/10-2013/14\ CIP\ proposes\ to\ allocate\ \$0\ for\ Traffic\ Signal\ Maintenance\ in\ FY\ 2009/10\ and\ relies\ on\ an$ estimated \$450,000 fund balance in PWC 8595 at the end of this fiscal year to be carried over into FY 2009/10. (2) The 2009/10 - 2013/14 CIP proposes to allocate \$10,000 for Traffic Signal Knockdown Repair in FY 2009/10 and relies on an estimated \$410,000 fund balance in PWC 8596 at the end of this fiscal year to be carried over into FY 2009/10.

Based on the estimated annual cost for traffic signal maintenance (calculated based on rates contained in the contract) and the City's annual budget for such cost, there are adequate funds available. It is recommended to award the three-year (fiscal years 2009/10 through 2011/12) contract, not to exceed \$1,200,000, for Traffic Signal Maintenance and Repair to Republic ITS with an option to extend the contract for up to two additional years to FY 2013/14.

ENCLOSURE: None

RECOMMENDATION: Award a three-year contract (Fiscal Years 2009/10 through 2011/12) with the option to extend for up to two additional years to Republic ITS for a not to exceed value of \$1,200,000 for the initial three-year contract and authorize the City Manager or designee to execute the contract.

7.3 DELEGATION OF AUTHORITY TO APPROVE INTERFUND LOANS AND ADVANCES

Delegation of Authority to the City Manager to Approve Loans and Advances Between Certain City Funds Under Specified Terms and Conditions

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Executive Summary: In this report, staff proposes that the City Council delegate to the City Manager the authorization to approve loans and advances of five years or less, at reasonable interest rates, between specified City funds. These interfund transactions will facilitate temporary financing needs. The City Council is asked to grant this authority to the City Manager by resolution.

Discussion: Local governments use fund accounting to match available revenues and other resources to the expenditures for the particular governmental functions on which those revenues and resources may be legally expended. In Fremont's case, there are several funds, of which the General Fund is the most significant, that create a framework for measuring the City's financial position, operating results, and cash flows, and that allow the City to demonstrate compliance with restrictions on how the City's revenues and other resources are spent. Each fund has its own cash balance, which represents its share of the City's overall pooled-cash.

Periodically, either because of the need to start capital projects for which permanent financing sources are not yet available due to market conditions (e.g., the issuance of long-term debt), or because of cash flow timing differences between City revenue and expenditures, some of the City's funds will need cash to prevent a fund cash deficit. At the same time, other funds, and the City as a whole, will have surplus cash that it is temporarily investing. There have been, and will be, times when the City will be better off using such internal available funds for these financing needs rather than borrowing the money in the financial markets.

Under favorable debt-market conditions, the City borrows externally using long-term debt for capital projects or short-term debt (such as Tax Revenue Anticipation Notes) to meet cash flow deficits. Typically, the interest rates at which the City borrows and invests over these periods are approximately equal. Sometimes, however, financial market conditions exist where the City will be better off using cash rather than debt to meet these needs. The proposed resolution sets guidelines for such transactions.

The proposed resolution allows the City Manager to approve short-term interfund loans of one year or less, and long-term advances of five years or less, of up to \$40 million per loan or advance, at then prevailing United States Treasury interest rates. The City funds eligible to participate are limited in the resolution to those that may legally do so. Documentation evidencing these transactions will be executed by the City Manager and the Finance Director, and will specify the principal amount, the nominal

interest rate per annum, the maturity date and repayment schedule (with a provision for early prepayment), and the particular funds involved.

Because these are risk-free "investments" to the lending funds (the money will be replaced regardless of what happens in the external markets, so there is little risk of investment losses), the interest rates will be established using United States Treasury rates for comparable terms as of the date the loan or advance is made. For example, loans of one year or less will be based on United States Treasury bill rates, and advances of one to five years will be based on United States Treasury Note rates of the same tenor (e.g., two-year, three-year, or five-year) as the term of the advance.

Current market conditions are favorable to these internal transactions. The investments that the City is allowed to purchase are paying less than the external borrowing costs for comparable terms. Long-term municipal debt markets have experienced disruptions since the financial crisis began that have hindered the issuance of municipal debt. The proposed resolution will allow the City to use its own cash reserves to achieve favorable financing outcomes if these conditions persist. The resolution restricts these internal investing/financing transactions to assure City compliance with legal and grantor restrictions on spending particular revenues and resources.

Because of their available cash balances, staff expects that the Capital Improvement Fund (Fund 501) and the various Impact Fee funds will be the most likely sources of interfund loans and advances. Their projects frequently take years to plan, design, and implement. During these years, the funds are available for investment pending their use for their designated purpose. All money lent and borrowed between the funds under this resolution will be repaid at an appropriate interest rate to the lending fund.

The Capital Improvement Fund and the Park Impact Fee Funds combined have over \$50 million in cash available for such temporary investment into other funds through such interfund transactions. These funds will benefit by being able to invest and secure a fixed allocation of interest earnings during the current period of unpredictable and volatile (and low) investment returns. While staff expects that these interfund borrowings will bear an interest rate comparable to the earnings on the investment pool for similarly termed investments, it is likely that the pool earnings will differ from the fixed rates set on such loans and advances over their terms. The differences between pool-cash earnings and the fixed rates on the interfund transactions will either cost or accrue to the benefit of the funds still participating in the pooled investments.

Using such interfund borrowings to bridge-finance construction costs pending the issuance of long-term debt (such as was done with the fire apparatus purchased this fiscal year and the emergency back-up generators at the Development Services Center building), or to finance all or part of the General Fund's annual cash flow deficits (usually financed with TRANs) are examples of how such transactions could be utilized, if market conditions warrant.

Certain funds will not be eligible to participate in these transactions because of the strict statutory spending restrictions and their short intended holding periods between receipt and use. Gas tax funds, federal streets and highway funds, Proposition 1B funds, trust funds, and all grant funds are ineligible to participate in these transactions under the resolution. Redevelopment Agency funds will not participate unless the interfund transactions are pre-approved by the City Council and the Agency Board under separate resolutions.

ENCLOSURE: Draft Resolution

RECOMMENDATION: Adopt a resolution authorizing the City Manager or designee to approve interfund loans and advances between specified funds in accordance with the terms and conditions specified in the resolution.

7.4 CONSIDER BAY-FRIENDLY LANDSCAPE REQUIREMENTS

Consider a Resolution to Require City Landscape Projects 10,000 square feet or Larger to Meet the Minimum Required Points on the Bay-Friendly Landscape Scorecard and to Encourage Certain Private Development Applicants to Meet 7 of the Bay-Friendly Scorecard Practices

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Executive Summary: This report discusses the proposed adoption of the Bay-Friendly Requirements for Civic Landscapes. As part of the Waste Import Mitigation Funding eligibility requirements, the Alameda County Waste Management Authority has required member agencies to adopt Bay-Friendly requirements for a majority of public projects no later than July 1, 2009. Also discussed in this report is the new State of California State Water Ordinance and its impact on public and private projects after January 1, 2010.

BACKGROUND: The Alameda County Waste Management Authority Board (Board) adopted eligibility requirements for cities receiving Waste Import Mitigation Funding on March 26, 2008. The City of Fremont currently receives \$90,000 per year in Mitigation Funding. One of the Board requirements is for the City to adopt Bay-Friendly Landscape (BFL) requirements for public projects no later than July 1, 2009. The City sent a June 30, 2008 letter to the Board that demonstrated the City's commitment to the BFL policy. We are now following through on that commitment, after monitoring the potential impacts of these policies on actual projects.

DISCUSSION/ANALYSIS: The Board expects that each City will by resolution or ordinance adopt a policy that a substantial number of public projects meet 60 points on the (Civic) Bay Friendly Landscape Scorecard, out of 215 possible points, plus implement nine required BFL practices. According to Board staff, most of the member agencies have already adopted the policy or are in the process of doing so.

Many agencies have adopted a monetary threshold of \$100,000 project value, and some have used a threshold of 10,000 square feet of landscape area for the scorecard requirement to take effect. Fremont is proposing a 10,000 square foot threshold to avoid the monetary value becoming outdated with inflation over time.

Staff is also proposing that City Council consider a policy that those private projects that require landscape development, excluding parcels to be developed as single family homes, but including subdivision common areas meet seven of the nine minimum practices with no requirement to meet any points on the scorecard. While Stopwaste.org is not recommending implementing the full scorecard on private projects until a certification program is established, staff at Stopwaste.org has reviewed Fremont's draft policy for use of the scorecard and they are supportive of the seven basic practices approach defined for Fremont. Hayward has developed a parallel program called the "Hayward"

Environmentally Friendly Landscape Guidelines and Checklist," which requires 8 of the basic practices and BFL similar scorecard on private development applications. Other city's in Alameda County strongly encourage the use of the BFL practices on private development.

The BFL guidelines have quickly become the local standard for designing landscapes that consider water efficiency, sustainability, and address green building concepts for landscape design in the San Francisco Bay Area. City staff has tested the use of the scorecard on existing public projects such as the Tactical Training Center, Fire Station No. 11, and Centerville Community Park (expansion), and have found the impact to be negligible when projects are designed from the beginning with BFL as a guide. Staff has discussed the policy with the Planning, Maintenance, Landscape Architecture, Environment Services, and the City Attorney's staff. Parks and Urban Forestry maintenance staff has already participated in training to comply with some of the scorecard points.

The Bay-Friendly Landscape Guidelines and Program: Bay-Friendly Landscape Program (BFL) is a holistic approach to landscape design and maintenance that works in harmony with the natural conditions of the San Francisco Bay Watershed. Landscapes developed with the program prioritize criteria such as local climate, soils, and topography. The goal is to develop landscapes with greater local pest resistance, less maintenance, less use of resources, and less generated waste.

The BFL program has developed a comprehensive scorecard, and supporting guidelines to facilitate compliance. The scorecard is titled: Bay Friendly Scorecard for Commercial and Civic Landcapes. The guidelines are written within a framework defined by seven principles: landscape locally, landscape for less to the landfill, nurture the soil, conserve water, conserve energy, protect water and air quality and create and protect wildlife habitat.

The Board staff is in the process of creating a rating manual and possibly a certification program to establish consistency across agencies and landscape architects as the scorecard is implemented. The Board staff is also developing a scorecard for residential projects.

Parameters for use of Scorecard in Fremont: The proposal is to use the BFL scorecard on almost every public project that includes new or renovated landscape areas that cumulatively consist of 10,000 square feet or more, and to encourage use of 7 of the 9 basic practices on all private development projects except parcels to be developed as single family homes. Landscape is broadly defined to include, but not be limited to decorative paving, pedestrian paving, and planting areas. Landscape areas would not include roadways and parking lots.

There are unique situations where the BFL Scorecard would not be appropriate or beneficial in terms of meeting the goals of the program due to the limited scope and diversity of the project, regulation by other agencies, or where maintenance and renovation is the purpose of the project. The projects that will not be required to meet the minimum scorecard points include projects:

- where narrow roadway medians under six feet in width is the only landscape on the project;
- where street tree planting is the only landscape on the project;
- where erosion control planting is the only landscape on the project;
- defined as environmental mitigation or enhancement and are regulated and (or) funded by State or Federal Agencies; and

• that are capital maintenance projects to renovate or replace an existing facility that is predominately turf replacement or repair.

The Board recognizes that there may be unforeseen projects that cannot or should not be subject to the minimum scorecard points. The draft policy as noted above anticipates potential exclusions, however there may be other situations were an exemption is warranted because the goals of the program cannot be achieved within the scope of the project. The Board encourages establishing a City compliance officer that will review projects for compliance and determine if a project should be excluded from the scorecard requirement. Projects that the compliance officer deems exempt are reported to the Council on an annual basis. On Fremont projects, this will be the City Landscape Architect or other City Manager designee.

City landscape projects less than 10,000 square feet are not subject to the meeting the minimum scorecard points, but will still have to meet 7 of the (9) required BFL practices. All Private development applicants, except for parcels to be developed as single family homes, are subject to meeting only 7 of the BFL practices and will be encouraged to use the Scorecard voluntarily. The requirements will apply to City projects that are officially identified and funded after July 1, 2009, and to private projects with deemed complete applications after July 1, 2009.

Aesthetic Impact of Bay-Friendly Landscape principles: The use of Bay-Friendly Landscape design principles may impact the appearance of civic landscapes. The initial look may be perceived as sparse because plants are spaced at their ultimate size rather than tightly together to achieve an instant effect. Bay-Friendly landscapes may appear less colorful, less vibrant, and have shorter blooming periods. Plants will be spaced further from paving to avoid the need for trimming and shearing. Many of the traditional high water use plants will be missing, and the landscape plan will appear more diverse.

Consistency with other City Policies and State Requirements: On July 25, 2006, City Council adopted Resolution 2006-82 encouraging the use of sustainable building and landscape practices and a policy to obtain LEED certification of the silver level or higher for new City of Fremont buildings over 10,000 square feet. The resolution declared support for incorporating Bay-Friendly landscape whenever feasible on private residential and commercial projects. Council also declared that the City continue incorporating the BFL guidelines and practices on City projects. Implementing the Bay-Friendly Landscape Scorecard on City projects and implementing the use of 7 minimum practices on private projects is consistent with previous City Council direction on the use of Bay-Friendly Landscape.

The State of California is in the process of implementing the new Water Efficient Landscape Ordinance (WELO), AB 1881 to replace the existing State Water Use Ordinance AB 325, which became law in the early 1990's. The new WELO is substantially focused on water use but does discuss landscape design principles as they relate to water use. For example, the ornamental use of turf is strongly discouraged due to the high water needs of turf and the inefficiency of spray-type irrigation, which is necessary for turf watering. This provision of the WELO is consistent with the Bay-Friendly Landscape Guidelines. All provisions of the WELO are required on public and private projects equally.

The City of Fremont and Alameda County Water District (ACWD) are required to enforce the provisions of the WELO on private projects through the (City) permitting process. A number of construction items such as irrigation water audit and certifications from contractor, designer and owner

are required by WELO prior to building occupancy on projects with a local permit. The current State law only requires the City to review the project plans for compliance and collect a Water Use Certification from the Landscape Architect.

The new WELO will become State law on January 1, 2010. Up until that time, the City and ACWD may establish a water ordinance of their own as long as the provisions are equal to or greater than the WELO in terms of achieving water conservation in landscape design. A local ordinance must also receive approval from the State Water Resource Board. Due to the complexity and cost of such an undertaking, staff is not recommending the City pursue its own water ordinance.

Alameda County Waste Management Authority staff has stated they intend to remain consistent with the State Ordinance with any future modifications to the Guidelines and Scorecard. BFL and WELO are consistent with each other; however, there are some provisions in each that do not appear in the other. City staff does not foresee any problem implementing both the BFL Scorecard and the State WELO.

FISCAL IMPACT: The Board, through the Bay Friendly program, offers grants to agencies implementing the policies on public projects to assist with design and construction. The grants are in the \$50,000 range and Fremont would certainly be eligible to receive these grants.

Staff has experimented with the implementation of the scorecard on the Tactical Training Center and the Fire Station No. 11 projects. In both cases, the only additional expense was that of changing the design plan after the design was underway. The changes to construction costs are negligible. Staff anticipates that the wide spread use of low volume irrigation such as drip or bubblers will be more costly to install on larger projects, but the impact will not be significant.

The City does not have any landscapes that have been developed with the new BFL Scorecard, however, there is a general assumption that maintenance costs could experience long-term reduction in labor, water and energy. Ideally less shearing will be necessary, which will result in less labor and fuel use. Less shearing along with other BFL policies, should yield water savings.

Implementing the WELO will require more staff time to review and approve development applications and more time to review and approve development projects at the construction stage. Staff anticipates a learning curve for design teams on development applications as they become familiar with the new requirements and as various municipalities throughout California create differing procedures for compliance with WELO. Staff has begun the process of updating the Landscape Development Requirements and Policies (LDRP) to streamline the development process in terms of complying with the new WELO requirements. At a minimum staff will include a list of design items required, a list of submittal items required, and prepared forms to make approvals straightforward.

Staff believes that implementing WELO on City projects will have a minor impact once new internal project development procedures become familiar to all staff. Projects prepared by outside consultants may experience a similar learning curve as that of the private development project teams mentioned earlier.

ENVIRONMENTAL REVIEW: Adopting the new landscape standards is exempt from the California Environmental Quality Act (CEQA) per Guideline 15061 (b)(3) because it is certain that the adoption of

the standards will have no potential for causing a significant effect on the environment. The standards will replace current landscaping standards already implemented within the City of Fremont. Furthermore, implementation of the standards for an individual project will be subject to subsequent review consistent with CEQA procedures.

ENCLOSURES:

- Draft Resolution
- Attachment A (Attachment to the Resolution)
- Bay-Friendly Scorecard for Commercial and Civic Landscapes

RECOMMENDATION: Adopt a resolution establishing bay friendly landscape requirements for civic improvement projects that include landscaped areas larger than 10,000 square feet and directing staff to work with applicants for all private development projects (except parcels to be developed as single family homes, but including subdivision common areas) to endeavor to achieve 7 of the bay-friendly practices.

7.5 ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT APPLICATION Authorize Staff to Submit an Application to the Department of Energy for \$1,891,200 in Energy Efficiency and Conservation Block Grant Funding; Designate the Community Development Department as the Authorized Representative to Implement the Program; and Authorize the City Manager to Enter Into an Agreement With Stopwaste.org for the "Green Packages" Project

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Executive Summary: As part of the American Recovery and Reinvestment Act (ARRA) economic stimulus package, the federal government appropriated \$3.2 billion to fund the Energy Efficiency and Conservation Block Grant program, or EECBG. Fremont's formula allocation is \$1,891,200. The funding will provide the City with the opportunity to complete a variety of projects that will reduce greenhouse gas emissions and energy consumption and help the City meet its sustainability goals. Staff is proposing a variety of projects that together meet Department of Energy (DOE) requirements and will provide community benefits including reduced greenhouse gas emissions; reduced expenditures on energy by the City, other agencies, and the community; and job creation. Staff is requesting Council authorization to submit the City's application to DOE for the funds; designation of the Community Development Department as the Authorized Representative to manage the project, per DOE guidelines; and authorization to enter into an Agreement with Stopwaste.org for the "Green Packages" project.

BACKGROUND: The purpose of the EECBG Program is to assist eligible entities in increasing energy efficiency and reducing emissions. As noted in the Funding Opportunity Announcement, "DOE encourages entities to develop many different new and innovative approaches within the framework of the legislation and the guidance to serve these purposes. However, each entity is required to use the funds in a cost-effective manner that is of maximum benefit to the population of that entity and in a manner that will yield continuous benefits over time in terms of energy and emission reductions."

Of the \$3.2 billion appropriated to fund the EECBG program, Fremont is slated to receive \$1,891,200 in the form of a formula grant. Although the funding has already been allocated, it cannot be awarded until the City submits an application meeting DOE's requirements. The application deadline is June 26, 2009.

Cities may take one of two approaches when filing the application. The first is to submit the complete package, including an Energy Efficiency and Conservation Strategy (EECS) and a detailed list of projects, by June 26, 2009. Under this option, the DOE will review the application within 120 days and award Fremont the funds once the application is deemed complete and satisfactory. The second option is to submit an abbreviated application that indicates the City's interest in receiving the funds, but requests an additional 120 days to develop and submit the EECS and list of accompanying projects. Under this second option, the City could also request up to a \$250,000 advance of grant monies to pay for

development of the EECS. Receipt of the full award would likely be at least four months later than under the first option.

Staff has developed a complete application package that, if authorized by Council, could be submitted by the June 26 deadline as is or with minor modifications. Should Council decide that more information and analysis are necessary prior to authorizing staff to submit the City's application, staff would file the abbreviated application with DOE and request an additional 120 days to submit the detailed application.

Eligible Activities: Eligible uses of the EECBG funds fall into 14 categories:

- 1) Development of an Energy Efficiency and Conservation Strategy
- 2) Technical Consultant Services
- 3) Residential and Commercial Building Energy Audits
- 4) Financial Incentive Programs
- 5) Energy Efficiency Retrofits
- 6) Energy Efficiency and Conservation Programs for Buildings and Facilities
- 7) Development and Implementation of Transportation Programs
- 8) Building Codes and Inspections
- 9) Energy Distribution
- 10) Material Conservation Programs
- 11) Reduction and Capture of Methane and Greenhouse Gases
- 12) Traffic Signals and Street Lighting
- 13) Renewable Energy Technologies on Government Buildings
- 14) Any Other Appropriate Activity

Once DOE makes the funding award, the funds must be obligated within 18 months and expended within 36 months.

Energy Efficiency and Conservation Strategy: The City has initiated a Climate Action Plan (CAP) that will lay out specific strategies for reaching the greenhouse gas emissions goal established by the City Council of a 25% reduction from a 2005 baseline by 2020. The CAP will be completed in FY 2009/10. Since the City does not yet have a detailed CAP, staff has drafted an EECS (enclosed as Appendix 1) that is based on previous Council direction on sustainability; recommendations of the Green Task Force; and is consistent with Council direction regarding the General Plan Update. Based on guidance provided by DOE, the EECS can be relatively brief and high level. Staff believes the attached EECS is sufficiently detailed for purposes of the application.

Criteria for Evaluating Projects: Based on DOE guidance, staff used the following criteria to evaluate possible projects:

- Amount of energy saved and greenhouse gas (ghg) emissions eliminated
- Utility/fuel cost savings
- Additional monetary savings (e.g., reduced long-term maintenance)
- Jobs produced
- Leveraging of outside resources
- Improved local and regional coordination on energy conservation across jurisdictions

- Benefits to local economy
- Public education benefits

It is important to note that not every recommended project rates high on every criterion. However, staff's goal was that when taken as a group, the City's proposed use of the funds would satisfy the wide range of objectives established by DOE.

Proposed Projects: The projects recommended by staff are summarized below. A more detailed analysis of each project is enclosed in Appendix 2.

Project Summary	Recommended Allocation	Major Benefits	
Alameda County Library Zero Net Energy Project: A collaborative effort between the City and Alameda County, this project will result in the Library being a zero net energy building. The City's EECBG funds will go toward installation of a new cool roof, while the County will implement interior energy efficiency improvements and install rooftop solar panels through a Power Purchase Agreement. Staff will return to Council at a later date with a Memorandum of Understanding assigning precise roles and responsibilities between the City and County.	\$900,000	Energy savings, ghg emissions reduced, utility cost savings to library, cost savings to City General Fund, jobs produced, leveraging of outside resources, cross- agency coordination, and public education.	
Other City Efficiency Retrofits: Through the East Bay Energy Watch program, the City has completed lighting retrofits at the Police Building, City Hall, the Family Resource Center, and the Development Center. EECBG funding will allow the City to perform additional lighting retrofits at community centers, the Senior Center, etc. and also will allow for retrofits of inefficient HVAC equipment and boilers.	\$220,000	Extremely cost-effective energy savings and ghg reductions, utility cost savings to City General Fund, leveraging of outside resources (utility rebates, Energy Watch consulting assistance).	
LED Streetlight/Parking Lot Light Pilot: Light Emitting Diode (LED) lamps have been used for several years in traffic signals because of their lower energy and maintenance demands. LED technology continues to improve, and many cities are experimenting with it in new applications such as streetlights and parking lot lights. This funding will allow for the City to conduct a pilot project to evaluate LED lamps for these applications.	\$110,000	Cost effective energy savings and ghg reductions; utility cost savings; real-world test data to inform future purchase decisions; reduced maintenance costs.	

LED Pedestrian Signals: The City has converted all traffic signals to LED, but 243 pedestrian signals remain to be converted. EECBG funding will allow for this conversion to take place.	\$87,000	Cost effective energy savings and ghg reductions; utility cost savings; reduced maintenance costs.
City Hybrid Vehicle Fund: As recommended by the Green Task Force, the City has begun to purchase hybrid vehicles to replace gasoline vehicles the fleet. Hybrid vehicles generally cost several thousand dollars more than the equivalent gasoline vehicle. EECBG funding will cover the hybrid premium for several vehicles, allowing the City to continue hybrid purchases despite the difficult budget situation.	\$75,000	Reduced emissions of ghg and other pollutants from gasoline consumption; City General Fund savings on gasoline; public education.
Green Zoning Ordinance: The City's General Plan Update will set a policy framework for reducing the City's greenhouse gas emissions through promoting Transit Oriented Development, green building, etc. However, in order to implement the General Plan sustainability policies, the Zoning Ordinance must be updated. Currently there is no funding identified for revising the Zoning Ordinance. EECBG funding will ensure that the City's zoning will be updated in a timely manner to reflect the sustainability goals of the General Plan.	\$110,000	Reduction in vehicle miles traveled due to transit- oriented development; reduced ghg due to other green measures in code; funding source for otherwise unfunded but required work effort.
California Youth Energy Services: In collaboration with the Alameda County Water District and PG&E's East Bay Energy Watch program, the City has contracted with a Bay Area non-profit to bring the California Youth Energy Services (CYES) program to Fremont in summer 2009. CYES hires and trains local youth ages 15-24 to provide free in-home water and energy conservation audits for local residents. EECBG funding will ensure that the program can continue in 2010.	\$15,000	Community ghg reductions; utility savings for Fremont residents; job training and paid summer jobs for local youth; leveraging outside resources; and cross- agency collaboration.
Community Grants: DOE guidelines allow a portion of the EECBG funds to be sub-granted to non-profit agencies and other government agencies for eligible activities. Staff proposes to initiate a sub-grant process (similar to and coordinated with	\$220,000	Community ghg reductions; monetary savings for agencies that can be reinvested in services; cross-agency

the City's current Community Development Block		collaboration.
Grant process) that will make funds available for		
worthy projects. Examples of possible projects might include:		
 Solar power or energy efficiency in affordable housing 		
 Lighting retrofits for facilities serving low income clients 		
• Energy audits/retrofits in Fremont schools		
"Green Packages": StopWaste.org, the County's Waste Management Authority, is spearheading a countywide effort to develop "green specification packages" that will establish retrofit standards and product specifications for single family residential units. Once standards are developed, StopWaste will provide training and marketing on the specifications for Fremont contractors and City building inspectors. StopWaste will also track the number of "green" retrofits completed in Fremont using the specifications, which will assist the City with tracking progress toward climate protection goals. For this project, staff is requesting a resolution authorizing the City Manager to negotiate and enter into an agreement defining deliverables and obligations.	\$69,300	Community ghg reductions; green job training; cross-agency collaboration; lays groundwork for possible future initiative to establish financing district for efficiency improvements.
Implementation/Monitoring/Reporting: City staff time will be required over the three-year	\$84,900	Community and City ghg reductions and utility
course of the project to implement the various strategies and also to comply with extensive		savings; cross-agency collaboration; other
Federal monitoring and reporting requirements.		benefits described above.
Total	\$1,891,200	

<u>Other Possible Projects:</u> In developing recommendations, staff considered a variety of projects that we are not included in the final list based on staff's application of the evaluation criteria. Other projects considered included:

• Development of a Mandatory Green Building Ordinance Staff believes the City's current framework, which establishes green building requirements as a standard condition for entitlement applications, will achieve most of the energy savings that would accrue from a mandatory ordinance. • Establishment of an AB 811 Financing District

AB 811 allows municipalities to establish voluntary financing districts for the purpose of installing energy efficiency improvements or solar. The City of Berkeley and Sonoma County have each established AB 811 districts, which allow their residents to borrow funds for home energy projects and repay the loan through a voluntary property tax assessment. There are efforts underway at the State level (through the California Statewide Communities Development Authority) and at the regional level (through the Association of Bay Area Governments) to establish AB 811 districts that will cover larger geographic areas and allow for economies of scale. As these options become more developed in the next two to four months, staff will evaluate the pros and cons of Fremont becoming part of an AB 811 district. All of the programs being discussed are self-funding (administrative costs paid by borrowers), therefore, no funding from EECBG would be necessary.

• Establishment of a Revolving Loan Fund for Energy Improvements
A revolving loan fund would impose significant up-front administrative costs to set-up. Staff's evaluation is that the administrative costs combined with the one-time nature of the EECBG funds make it impractical to establish a loan fund.

ENCLOSURES:

- Draft Resolution
- Exhibit 1: Energy Efficiency and Conservation Strategy
- Exhibit 2: Detailed Analysis of Recommended Projects

RECOMMENDATIONS:

- 1. Authorize staff to submit an application to the Department of Energy for \$1,891,200, including the activities and amounts outlined in this staff report.
- 2. Authorize the Mayor to sign a letter designating the Community Development Department as the City's Authorized Representative for implementation of the EECBG program.
- 3. Adopt resolution authorizing the City Manager or designee to enter into an agreement and implementing documents with StopWaste.org for the Green Packages project, subject to receipt of EECBG funds.
- 4. If grant is awarded to the City, then Council approves the appropriation of funds to projects for \$1,891,200.

8.1 Council Referrals

8.1.1 COUNCILMEMBER WIECKOWSKI REFERRAL: Request the City Council to Direct Staff to Meet with the Math Science Nucleus to Explore Options Available within City Owned Buildings that could House a Children's Natural History Museum

I am proposing that the City Council direct the City Manager and staff to meet with the Math Science Nucleus to explore options available within City owned buildings that could house a Children's Natural History Museum. Discuss the potential of a City and Math Science Nucleus collaboration to develop an initial five-year business plan for construction and operation, and report back to Council with potential locations and costs for developing the initial five-year study.

8.2 Oral Reports on Meetings and Events

ACRONYMS

ABAG Association of Bay Area Governments	FUSD Fremont Unified School District
ACCMAAlameda County Congestion	GIS Geographic Information System
Management Agency	GPA General Plan Amendment
ACEAltamont Commuter Express	HARB Historical Architectural Review Board
ACFCDAlameda County Flood Control District	HBA Home Builders Association
ACTAAlameda County Transportation	HRC Human Relations Commission
Authority	ICMA International City/County Management
ACTIAAlameda County Transportation	Association
Improvement Authority	JPA Joint Powers Authority
ACWDAlameda County Water District	LLMD Lighting and Landscaping Maintenance
BAAQMD Bay Area Air Quality Management	District
District	LOCC League of California Cities
BARTBay Area Rapid Transit District	LOS Level of Service
BCDCBay Conservation & Development	MOU Memorandum of Understanding
Commission	MTC Metropolitan Transportation Commission
BMPsBest Management Practices	NEPA National Environmental Policy Act
BMRBelow Market Rate	NLC National League of Cities
CALPERSCalifornia Public Employees' Retirement	NPDES National Pollutant Discharge Elimination
System	System
CBDCentral Business District	NPO Neighborhood Preservation Ordinance
CDDCommunity Development Department	PC Planning Commission
CC & R'sCovenants, Conditions & Restrictions	PD Planned District
CDBGCommunity Development Block Grant	PUC Public Utilities Commission
CEQACalifornia Environmental Quality Act	PVAW Private Vehicle Accessway
CERTCommunity Emergency Response Team	PWC Public Works Contract
CIPCapital Improvement Program	RDA Redevelopment Agency
CMACongestion Management Agency	RFP Request for Proposals
CNGCompressed Natural Gas	RFQ Request for Qualifications
COFCity of Fremont	RHNA Regional Housing Needs Allocation
COPPSCommunity Oriented Policing and Public	ROP Regional Occupational Program
Safety	RRIDRO Residential Rent Increase Dispute
CSACCalifornia State Association of Counties	Resolution Ordinance
CTCCalifornia Transportation Commission	RWQCB Regional Water Quality Control Board
dBDecibel	SACNET Southern Alameda County Narcotics
DEIRDraft Environmental Impact Report	Enforcement Task Force
DODevelopment Organization	SPAA Site Plan and Architectural Approval
DU/ACDwelling Units per Acre	STIP State Transportation Improvement
EBRPDEast Bay Regional Park District	Program
EDAC Economic Development Advisory	TCRDF Tri-Cities Recycling and Disposal Facility
Commission (City)	T&O Transportation and Operations
EIREnvironmental Impact Report (CEQA)	Department
EISEnvironmental Impact Statement (NEPA)	TOD Transit Oriented Development
ERAFEducation Revenue Augmentation Fund	TS/MRF Transfer Station/Materials Recovery
EVAWEmergency Vehicle Accessway	Facility
FARFloor Area Ratio	UBC Uniform Building Code
FEMAFederal Emergency Management Agency	USD Union Sanitary District
FFDFremont Fire Department	VTA Santa Clara Valley Transportation
FMCFremont Municipal Code	Authority
FPDFremont Police Department	WMA Waste Management Authority
FRCFamily Resource Center	ZTAZoning Text Amendment

UPCOMING MEETING AND CHANNEL 27 BROADCAST SCHEDULE

BROADCAST SCHEDULE				
Date	Time	Meeting Type	Location	Cable Channel 27
June 16, 2009		Cancelled		
June 23, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
June 30, 2009 (5 th Tuesday)		No Meeting		
July 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 21, 2009	TBD	Work Session	Council Chambers	Live
July 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
August		Council Recess		
September 1, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 8, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 15, 2009	TBD	Work Session	Council Chambers	Live
September 22, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 5, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
October 6, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 13, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 20, 2009	TBD	Work Session	Council Chambers	Live
October 27, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live